

THE BISHOP OF ELY'S REGISTRY

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To: Clergy in the Diocese of Ely

NOTE TO THE CLERGY – MARRIAGE LAW: 'qualifying connections'

The 'Church of England Marriage (Amendment) Measure 2012' received Royal Assent on 19th December 2012. Section 2 (dealing with the law regarding the publication of banns) came into force on that date, and a separate Note addresses this (as attached below).

Section 1 of the Measure amends the Church of England Marriage Measure 2008 and came into force on 1st June 2013. The legislation clarifies for the avoidance of doubt that those who have a 'qualifying connection' (as defined in the 2008 Measure) with a parish may benefit from various provisions of the Marriage Act 1949 in the same way that those who have a right to marry in his or her parish of residence or usual place of worship.

Those provisions are as follows:

- A) Where benefices are held in plurality or where a single benefice has multiple parishes, and the bishop has made a order for banns and marriages (under the Marriage Act section 23 or the Mission and Pastoral Measure section 43), banns may be published and marriages take place in any of the churches or chapels in the benefice(s) as defined by the terms of that order.
- B) Where a parish church is being rebuilt or repaired, and is therefore not being used for usual parish services, banns may be published and marriages may take place in:-
 - i. a building in the parish that has been licensed by the bishop for services whilst the parish church is out of use; or,
 - ii. if the bishop has not licensed any such building, any consecrated chapel in the parish as directed by the bishop; or
 - iii. a parish church or chapel licensed for marriages of any adjoining parish.
- C) Where a parish does not have a parish church or public chapel, or does not have a parish church or public chapel in which Sunday services are regularly held, the parish is deemed to belong to any adjoining parish, and banns may be published and marriages solemnized in the parish church of any adjoining parish.
- D) Where a parish has no parish church, but a building (or part of a building) in the parish is designated as a 'parish centre of worship', it is deemed to be, for the purpose of marriages, a parish church; but a marriage may be solemnized either in the 'parish centre of worship' or in any adjoining parish as under (C) above.

The Church of England Legal Office has provided a more detailed briefing setting out the changes. The briefing is included with this note.

Clergy are always welcome to ring the Registry team during office hours or email for advice on general or specific enquiries on marriage law.

Howard Dellar, Diocesan Registrar
03/06/2013

THE BISHOP OF ELY'S REGISTRY

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To: Clergy in the Diocese of Ely
(and others responsible for the publication
of banns for Church of England weddings)

COPY

NOTE TO THE CLERGY – MARRIAGE LAW: changes to publication of banns

The 'Church of England Marriage (Amendment) Measure 2012' is due to receive Royal Assent on 19th December 2012. The Measure deals with two aspects of marriage law.

Section 2 comes into force immediately when Royal Assent is given, i.e. on 19th December 2012. This section concerns important changes to the law regarding the publication of banns, summarised as follows:

1. The Measure provides 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)
2. The Measure requires that the publishing of Banns (on three Sundays, as at present) must be at the '**principal service**' (rather than as at present at 'morning service'). There is an optional provision that they may additionally be published at any other service on those three Sundays.

These will be important changes to the statutory procedure for the publication of banns of marriage in the Church of England. The clergy and others responsible for publishing banns need to be aware of and in due course act upon these changes, given the importance of banns being properly published.

The Church of England Legal Office has provided a briefing setting out the changes, as well as a copy of section 7 of the Marriage Act 1949 as amended by the 2012 Measure. The briefing and amended section are both included with this note.

Section 1 of the Measure amends the Church of England Marriage Measure 2008 to widen the conditions for establishing the qualifying connections of persons intending to be married in certain cases. This Section will come into force at a later date, yet to be determined.

Clergy are always welcome to ring the Registry team during office hours for advice on general or specific enquiries on marriage law.

Peter Beesley
Diocesan Registrar
23/11/2012

Commencement of Section 1 of the Church of England Marriage (Amendment) Measure 2012

Section 1 of the Church of England Marriage (Amendment) Measure 2013 comes into force on 1st June 2013.

The Archbishops of Canterbury and York have made an instrument appointing 1st June 2013 as the day on which section 1 of the Church of England Marriage (Amendment) Measure 2013 will come into force.

Section 1 amends the Church of England Marriage Measure 2008. Under the 2008 Measure, a person may marry in the church of a parish with which he or she has a ‘qualifying connection’. (This is in addition to the right a person has to marry in his or her parish of residence or usual place of worship.)

The general effect of the amendments made by section 1 of the 2012 Measure is that persons who wish to marry on the basis of a qualifying connection with a parish are put in an equivalent position to those who marry on the basis of residence in the parish or of being habitual worshippers there. A more detailed commentary follows.

Section 1(1)

Section 1(1) inserts a new section 1A (Further provision as to qualifying connections) into the 2008 Measure. The new section 1A contains four new subsections.

New subsection (1)

New subsection (1) applies certain existing statutory provisions to the case of marriages by virtue of a ‘qualifying connection’ under the 2008 Measure. These provisions will enable a person to marry—

- (a) in the church or chapel of another benefice that is held in plurality with the benefice to which the parish with which he or she has a qualifying connection belongs; and
- (b) in the church or chapel of another parish in the same, multi-parish benefice as the parish with which he or she has a qualifying connection.

In both cases, the entitlement to marry in the church or chapel of the other parish or benefice depends on the bishop having made a direction to that effect in relation to the benefice(s) concerned. It remains in the bishop’s discretion as to whether to make such a direction and – if so – which churches or chapels to specify in the direction.

Under existing statutory provisions¹, the bishop may make directions in respect of benefices held in plurality and multi-parish benefices as to where parishioners may marry within the benefice or benefices concerned. New subsection (1) applies the same power to the case of persons who have a qualifying connection with a parish belonging to the benefice, or one of the benefices, concerned.

¹ Those provisions are Section 23 of the Marriage Act 1949 and paragraph 12(4) of Schedule 3 to the Mission and Pastoral Measure 2011. The reference in the new subsection (1)(b) to paragraph 14(4) of Schedule 3 to the Pastoral Measure 1983 is now to be construed as a reference to paragraph 12(4) of Schedule 3 to the Mission and Pastoral Measure 2011 by virtue of section 17(2)(a) of the Interpretation Act 1978.

New subsection(2)

New subsection (2) applies existing statutory provisions that are concerned with the position where a church is unavailable because it is being rebuilt or repaired to the case of marriage by virtue of a qualifying connection under the 2008 Measure. It does so by providing that in those circumstances, banns may be published, and the marriage solemnized, in any building in which those things could be done under section 18 of the Marriage Act 1949 (Publication of banns and solemnization of marriages during repair and rebuilding of churches).

That will mean that where a person has a qualifying connection with a parish but the parish church or chapel of that parish is being rebuilt or repaired, that person will be able to marry (and have banns published) in—

- (c) a building within the parish concerned that has been licensed by the bishop for the performance of divine service while the parish church or chapel is out of use;
- (d) if the bishop has not licensed a building under (a), any consecrated chapel in the parish as directed by the bishop; or
- (e) if neither (a) nor (b) applies, a church or chapel of any adjoining parish.

New subsection (3)

New subsection (3) applies section 6(3) of the Marriage Act 1949 to the case of marriage by virtue of a qualifying connection under the 2008 Measure. Section 6(3) of the 1949 Act deals with the situation where a parish does not have a parish church or chapel belonging to it, or does not have a church or chapel in which Sunday services are regularly held. Where that is the case, the parish is deemed to belong to any adjoining parish.

Applying that provision to the case of marriage by virtue of a qualifying connection will mean that if a person has a qualifying connection with a parish that has no parish church, or no church in which Sunday services are regularly held, he or she will be able to have the banns published, and marry, in the parish church of any parish that adjoins the parish with which he or she has the qualifying connection.

New subsection (4)

New subsection (4) applies section 29(3) of the Pastoral Measure 1983 to the case of a marriage by virtue of a qualifying connection.

Section 29 of the Pastoral Measure is concerned with the position where a parish has no parish church. The bishop may designate a building (or part of a building) in the parish as a 'parish centre of worship'. A parish centre of worship is for certain purposes, including marriage, deemed to be a parish church.

However, section 29(3) allows persons who have a right to marry in the parish to elect to proceed as if the building in question had not been designated as a parish centre of worship and, instead, simply to proceed under section 6(3) of the 1949 Act on the basis that the parish has no parish church and marry (and have their banns published in) the parish church of any adjoining parish.

By applying section 29(3) of the Pastoral Measure to the case of marriage by virtue of a qualifying connection, new subsection (4) will mean that a person who has a qualifying connection with a parish which has no parish church will be able to elect to marry in the parish church of any adjoining parish even if the parish with which he or she has the qualifying connection has a parish centre of worship.

Section 1(2)

Section 1(2) makes a minor correction to the drafting of section 1(2) of the 2008 Measure. It is possible for part of a building (as opposed to whole building) to be designated as a parish centre of worship. Section 1(2) accordingly inserts the words 'or part of a building' into section 1(2) of the 2008 Measure.

Section 1(3)

Section 1(3) inserts the words 'Without prejudice to subsection (3) above,' at the beginning of section 1(13) of the 2008 Measure so that it is obvious that section 1(13) (which makes provision for the situation where parish boundaries have changed) is additional to, and not in substitution for, the general provision for qualifying connections made in section 1(3) of the 2008 Measure.

Section 1(4)

Section 1(4) inserts a new subsection (13A) into section 1 of the 2008 Measure.

New subsection (13A) makes provision so that a person may marry in a church which was formerly the parish church of a parish with which he or she had a qualifying connection but has since become the parish church of a different parish (as a result of pastoral reorganisation).

The Legal Office
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22nd May 2013