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

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

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 19th 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 19th 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 19th 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 23rd 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 Legal Office
Church House
Westminster

22nd November 2012

**Section 7 of the Marriage Act 1949 as amended
by section 2 of the Church of England Marriage (Amendment) Measure**

7 Time and manner of publication of banns

- (1) Subject to the provisions of section nine of this Act, banns of matrimony shall be published on three Sundays preceding the solemnization of the marriage ~~during morning service or, if there is no morning service on a Sunday on which the banns are to be published, during evening service~~ **during either the principal service or both the principal service and another service.**
- (1A) In subsection (1) of this section “principal service” means the service at which, in the opinion of the clergyman or other person who, under section 9 of this Act, has the responsibility for publishing banns of matrimony, the greatest number of persons who habitually attend public worship are likely to attend.**
- (1B) Where banns of matrimony are published on a Sunday during both the principal service and another service, both of those occasions shall be deemed to be the same time of asking for the purposes of the form of words referred to in subsection (2) of this section.**
- (2) Banns of matrimony shall be published in an audible manner and in accordance with the form of words prescribed by the rubric prefixed to the office of matrimony in the Book of Common Prayer **or set out in section 2 of the Church of England Marriage (Amendment) Measure 201-**, and all the other rules prescribed by the said rubric concerning the publication of banns and the solemnization of matrimony shall, so far as they are consistent with the provisions of this Part of this Act, be duly observed.
- (3) The parochial church council of a parish shall provide for every church and chapel in the parish in which marriages may be solemnized, a register book of banns made of durable materials and marked in the manner directed by section fifty-four of this Act for the register book of marriages, and all banns shall be published from the said register book of banns by the officiating clergyman, and not from loose papers, and after each publication the entry in the register book shall be signed by the officiating clergyman, or by some person under his direction.
- (4) Any reference in the last foregoing subsection to a parochial church council shall, in relation to an authorised chapel in an extra-parochial place, be construed as a reference to the chapel warden or other officer exercising analogous duties in the chapel or, if there is no such officer, such person as may be appointed in that behalf by the bishop of the diocese.