

CHURCH OF ENGLAND MARRIAGE MEASURE 200[-]'¹
- GUIDANCE FOR CLERGY, PARISHES AND OTHERS
ON RESPONDING TO ENQUIRIES (Issued September 2007)

I GENERAL QUESTIONS

Q I *What does the Measure do? How does it change the law, and why?*

A I Under the existing law, a couple, in general, have the right to marry in the parish church of a parish where one or both of them are resident or one or both of them have their names on the church electoral roll. If the couple wish to marry anywhere else they need to apply for an Archbishop of Canterbury’s Special Licence with the support of the minister of the church where they wish to marry. The grant of a Special Licence is not automatic, because it is a matter within the discretion of the Archbishop. (There are a few exceptions to the right to marry in the parish church of the parish where a person is resident or on the church electoral roll. The most important one in practice is where a divorced person wishes to re-marry when his or her former spouse is still alive – see Q&A 10 below).

The new Measure, which is not yet law, provides for a couple to have the same right to marry, without the need for a Special Licence, in the parish church of a parish with which one or both of them can show that he or she has a “qualifying connection” of a kind specified in the new Measure.

The reason for this change in the law is that when a couple decide to come to the Church for marriage and to enter into a lifelong commitment to one another before God, they may wish to do so in a place where neither of them is living or on the church electoral roll, but

Notes for clergy etc

The existing law is to be found partly in case-law laid down by the judges, partly in the Marriage Act 1949 (an Act of Parliament which contains much of the law governing both civil and religious marriages) and partly in other legislation.

As clergy etc will be aware, the rules requiring one or both of the couple to be resident in the parish or on the church electoral roll were laid down by Parliament in the 1949 Act, not by the Church.

¹ The year in the final title of the Measure will be the year in which it receives the Royal Assent (see A3 below) (e.g. “Church of England Marriage Measure 2008”).

<p>which has particular and enduring significance for one or both of them. For example, in a substantial number of cases, the couple wish to marry in the place where one of them grew up and/or where his or her parents now live, and which he or she sees as home even though he or she is not resident there as a matter of law. The Church recognises this, and wishes the parish to be in the position of offering such a couple the same welcome as it does to those living in the parish.</p>	
<p>Q 2 What are the “qualifying connections”?</p>	
<p>A 2 The “qualifying connections” under the new Measure are as follows:</p> <ol style="list-style-type: none"> 1. The person concerned: <ul style="list-style-type: none"> • was baptised in the parish; or • has been confirmed and the confirmation has been entered in a church register book belonging to the parish. (This would have been done on the basis that the person concerned was prepared for confirmation in the parish); or • has at any time had his or her usual place of residence in the parish for at least 6 months; or • has at any time habitually attended public worship in the parish for at least 6 months; or 2. That person’s parent has at any time during the person’s lifetime: <ul style="list-style-type: none"> • had his or her usual place of residence in the parish for at least 6 months; or • habitually attended public worship in the parish for at least 6 months; or 3. That person’s parent or grandparent was married in the parish. <p>(In this list references to being baptised, confirmed or married, or attending public worship, all refer to Church of England services.)</p>	<p><i>The Measure also makes provision for the more straightforward examples of cases where parish boundaries have been altered, or a parish has been abolished or united with another parish, since the event or circumstances on which the person concerned wishes to rely in order to establish a qualifying connection.</i></p>

<p>Q 3 Are these changes in force yet? If not, when will they come into force?</p>	
<p>A 3 The Measure will need Parliamentary approval before it becomes law. Provided it obtains that approval, we hope that it can be brought into force by around the middle of 2008, although we cannot yet be certain about the date. Further information about the likely date will be circulated as soon as it is available.</p>	<p><i>The Measure has received Final Approval from the General Synod, but it will now need to go to Parliament for consideration. It cannot become law unless and until it has been considered by the Ecclesiastical Committee of Parliament and both Houses of Parliament have agreed to its receiving the Royal Assent in the same way as an Act of Parliament.</i></p> <p><i>After that, the Bishops will need to issue guidance on implementing some aspects of the new Measure before the whole of it can be brought into force. The date or dates when it comes into force will be decided by the two Archbishops acting jointly.</i></p>
<p>Q 4 Some of the earlier press reports gave the impression that when the law was changed it would be possible to marry in places other than a parish church. Does the new Measure in fact allow that?</p>	
<p>A 4 No. Under existing law laid down by Act of Parliament, which also applies to cases under the new Measure, the marriage must take place in a parish church or in a very limited range of other parish places of worship. Subject to some special exceptions, a Church of England marriage in any other place will still require a Special Licence.</p>	<p><i>Most of the law relating to the procedures to be followed before a marriage (civil or religious), the registration of the marriage and the places where it may take place are laid down by the Marriage Act 1949. At an earlier stage, the Government planned to bring in wide-ranging legislation to reform the law on these matters. When the Government decided not to pursue this, the Church decided to bring forward some much more limited legislation of its own, confined to Church of England marriages.</i></p>

II SPECIFIC QUESTIONS FROM COUPLES

Q 5 *My fiancé(e) and I wish to marry in a parish where neither of us lives or has our name on the church electoral roll. We believe that one of us can show one or more of the “qualifying connections” with the parish, but we wish to marry before the new Measure is likely to come into force. Is this possible?*

A 5 It will not be possible to marry on the basis of the Measure before it has become law and been brought into force. Until then, the two ways in which it may be possible for you to put yourself in a position to be able to marry in the parish in question, under the existing law, are:

- for one or both of you to attend public worship in the parish habitually for at least 6 months and apply for entry on the church electoral roll; or
- for you to apply for a Special Licence, with the consent of the minister in charge of the church where you wish to marry. (The grant of a Special Licence is always discretionary, but favorable consideration is likely to be given to the application where you can show a connection with the parish. Further information, including details the normal requirements, can be obtained from Faculty Office of the Archbishop of Canterbury at 1 The Sanctuary, London SW1P 3JT, telephone 020 7222 5381, or from the Faculty Office website at www.facultyoffice.org.uk.)

The new Measure does not affect either the law on either of these alternatives, which will accordingly continue to be available after it becomes law.

You are advised to discuss the position as soon as possible with the parish priest of the parish in question (or a person authorised to deal with such enquires on his or her behalf).

Under the Church Representation Rules, this will not be possible for e.g. the person who habitually attends public worship at a Church of England church but is not baptised or is not able to declare him- or herself to be a member of the Church of England or a Church in communion with it.

It is recommended that where a couple wish to make firm arrangements at this stage for a marriage in reliance on what would under the Measure be a “qualifying connection”, they do so on the basis of the existing law. This is subject to the fact that in practice a Special Licence will only cover a marriage which takes place within 3 months after it was granted, which limits the length of time before the proposed marriage date that the application for a Special Licence can be submitted. As regards the prospects of a successful application for a Special Licence, see second bullet point opposite.

<p>Q 6 <i>My fiancé(e) and I would like to marry in a parish where neither of us lives or has our name on the church electoral roll. We believe that one of us can show one or more of the “qualifying connections” with the parish. Our proposed wedding date would be <u>after</u> the Measure is likely to come into force. Can we begin making preparations for the wedding and reception, book the date etc, now?</i></p>	
<p>A 6 At this stage, since the new Measure has not yet passed into law, it would not be advisable for any parish to give you a definite “booking” for a date for a marriage under the new Measure, however far in the future. You are advised to discuss the position with the parish priest of the parish in question (or a person authorised to deal with such enquires on his or her behalf), so that you can consider together what is the best course of action for you.</p>	<p>See notes to A3 and A5 above.</p>
<p>Q 7 <i>What evidence will we need to produce in order to prove a “qualifying connection”?</i></p>	
<p>A 7 It will be necessary to provide the information, written or otherwise, which the minister of the parish where you hope to marry requires in order to satisfy himself or herself that one of you has a “qualifying connection”. Once the Measure has become law the Bishops will issue further guidance about the information you will need to provide.</p>	
<p>Q 8 <i>My fiancé(e) and I wish to marry in a parish with which one of us feels a genuine and significant connection, but which does not fall within the categories set out in the Measure. Will that be possible?</i></p>	
<p>A 8 It may be possible to do that in one or other of the two ways set out in A5 above. Here again, you are advised to discuss this with the parish priest (or a person authorised to deal with such enquires on his or her behalf).</p>	

<p>Q 9 Where would the banns need to be called?</p>	
<p>A 9 In the parish where each of you is resident, and in the parish where the marriage is to take place.</p>	
<p>Q 10 One of us is divorced and marrying for the second time. Does this make a difference to using the Measure?</p>	
<p>A 10 A parish priest, whether of your home parish or a parish where you have a “qualifying connection”, is not under a legal duty to marry you if the divorced person’s former spouse is still alive.</p> <p>The Bishops have issued Advice for Clergy on these cases, and that Advice and further information, including a leaflet with an application form for couples, are available on http://www.cofe.anglican.org/info/papers/mcad/index.html</p>	
<p>Q 11 Because of our circumstances, we have been advised that we should obtain a common licence rather than being married by banns. Does the Measure cover such cases?</p>	<p><i>This might be because e.g. one of the couple was temporarily present abroad and thus could not have banns called in his or her place of residence.</i></p>
<p>A 11 The Measure makes it possible to issue a common licence for a marriage in the parish church of a parish with which one or both of the couple have a “qualifying connection”, subject to special provisions as to the procedure. Here again, you are advised to discuss this with the parish priest of the parish where you wish to be married.</p>	
<p>Q 12 Does the fact that one or both of us are not members of the Church of England/ are not Christians/ are not baptised make any difference to whether we can make use of the Measure?</p>	

<p>A 12 No, provided you both understand and accept that a member of the Church of England clergy would have to take the marriage service and would have to use a legally authorised form of Church of England marriage service.</p>	
<p>Q13 <i>We both live a long way from the parish where we wish to be married. Would we need to go there in advance for marriage preparation?</i></p>	
<p>A13 There are two separate aspects to marriage preparation.</p> <p>The first is that, before you are married, the minister of the church where you are to be married is under an obligation to talk to you both about the commitment you are proposing to enter into.</p> <p>In addition, Church of England parishes in general offer couples a good deal more than the legal minimum by way of marriage preparation, such as a course of sessions, sometimes with other couples. Most couples appreciate taking part in these and find them very valuable, because they help couples to lay a solid foundation for their life together. For example, the course often offers you an opportunity to talk through some of the important issues, hopes and fears which will form a vital part of your future married life. If you are too far away from the parish where you hope to be married to be able to take advantage of the marriage preparation arranged in that parish, it may well be possible to arrange for you to go to sessions in a parish near your home, and this is something you should discuss at an early stage with the minister of the parish where you hope to marry.</p>	<p><i>Paragraph 3 of Canon B30 provides that “It shall be the duty of the minister, when application is made to him for matrimony to be solemnized in the church of which he is the minister, to explain to the two persons who desire to be married the Church’s doctrine of marriage ... and the need of God’s grace in order that they may discharge aright their obligations as married persons“.</i></p> <p><i>It is the custom and practice of the Church of England to offer marriage preparation to all couples wishing to be married according to the Church of England rite. It is not mandatory for a couple to attend a course of marriage preparation which goes beyond paragraph 3 of Canon B30 para 3 (see above) whether they are marrying under the existing law or under the new Measure, but it is strongly recommended that the couple are encouraged to take advantage of it, and that if necessary in a case under the Measure arrangements are made for them to receive marriage preparation in a parish near their own homes.</i></p>