

MARRIAGE – legal matters

The principal law relating to marriage in Church of England parish churches is contained in the **Marriage Act 1949**. The Act provides that before a marriage can take place in a church, one of the following legal requirements must be fulfilled:

1. The calling of Banns; or
2. The issue of a Common Licence by the Bishop of the Diocese; or
3. The issue of a Special Licence by the Archbishop; or
4. The issue of a Superintendent Registrar's Certificate.

The Marriage Measure 2008 has modified this slightly, making it possible for couples to be married in a church other than their parish church if they have a “qualifying connection”.

Banns

Where a marriage is to take place in the parish church of the parish where one of the parties resides, the banns must be called in that church and in the parish church of the parish where the other party to the marriage resides. If the marriage is to take place in a church which is the “usual place of worship” of one of the parties (ie one of the parties is on the church electoral roll of that church), banns must be called also in the parish church of each of the parishes where one of the parties resides.

Banns can normally only be called in the parish church of each parish where one of the parties resides or is on the church electoral roll. There are exceptions in the cases of parishes where there is no parish church, or where there is a parish church which does not have a service every Sunday, or the parish church is temporarily closed for repairs. In any such case the parish can be treated as part of any adjoining parish, so that banns may be called in the church of an adjoining parish and the marriage solemnised there.

If a couple wish to be married in the church of a parish where neither resides or is on the church electoral roll, and where the before-mentioned exceptions do not apply, banns may not be called, and they must instead apply for a Special License.

An application for the calling of banns must be made to the minister of each parish where banns are to be called. Banns must be called on three Sundays (not necessarily consecutive Sundays) prior to the wedding and a certificate of publication must be obtained.

A marriage after the calling of banns must be solemnized within three months of the last occasion on which banns were called.

Common Licence

A Common Licence is a Bishop's permission for a marriage to take place in a particular church. In order to qualify for the issue of a Common Licence, one of the parties to the proposed marriage must have lived in the parish where the marriage is to take place for at least 15 days immediately preceding the date when the application for the Common Licence is made, or else must be on the church electoral roll.

An application for a Common Licence may be made by prior appointment at the office of the Diocesan Registrar. However, for those living at some distance from the Diocesan Registry, an application may be made instead to one of a number of clergy around the diocese who have been appointed Surrogate for receiving marriage licence applications. For the name and address of the nearest Surrogate, please see the Diocesan website.

Applicants for a marriage licence will be asked to supply the information requested on the attached Particulars of Application for a Marriage Licence form.

The Legal Advisory Commission recommends that, where one of the parties to a proposed marriage is a foreigner, the marriage ought to be by licence (which involves the making of a sworn statement as to status), rather than by banns. The foreign party should provide the Surrogate with some recent evidence of single status (such as a recent passport, or a letter from the party's lawyer or priest), and a letter from the appropriate embassy, confirming that if the marriage takes place in England, it will be recognised in the foreign country, or else indicating what steps need to be taken for the marriage to be recognised in the foreign country. The Surrogate will not normally require a letter from the embassy, if the foreign party is a citizen of a Commonwealth or former Commonwealth country, or of the USA, or of a country within the European Union.

Special Licence

The Archbishop of Canterbury has the right to grant a Special Licence for a marriage to take place at any convenient time or place in England or Wales. The issue of a Special Licence is discretionary. The most common need for a Special Licence is if the parties wish to be married in a church or chapel of a parish where neither resides or is on the church electoral roll. Another common reason is if the parties wish to be married elsewhere than in a building which is authorised for marriage according to the rites and ceremonies of the Church of England, for example, a school or college chapel.

Enquiries about a Special Licence should be made to: The Faculty Office, 1 The Sanctuary, Westminster, London SW1P 3JT (Tel: 0207 222 5381)

Email: faculty.office@1thesanctuary.com.

Superintendent Registrar's Certificate

A Superintendent Registrar of a civil Register Office may issue a Certificate to permit a marriage to take place in an Anglican church. One of the parties must have the required seven days' residence within the registration district and within the parish where the marriage is to take place before applying for the Certificate, or the church must be the usual place of worship of one or both of the parties. The Registrar enters the details of the parties in a book which is open to public inspection and also displays a notice at the Register Office for 15 days. If no impediments are shown within the period of 15 days, a Superintendent Registrar's Certificate can be issued. However, a clergyman is under no obligation to marry people who have chosen this preliminary, and in practice clergy will recommend banns or a Common Licence.

The Church of England Marriage Measure 2008

The aim of the Church of England Marriage Measure 2008 is to allow couples to be married by Banns or Common Licence, rather than by Special Licence, in a parish where they can show that one of them has a "qualifying connection". See 'Marriage Measure 08' in this handbook or at http://www.opsi.gov.uk/uk-church-measures/2008/ukcm_20080001_en_1.

Marriage After Divorce

In July 2002, General Synod decided to rescind the marriage resolutions of the Convocations of Canterbury and York, which had urged clergy not to use the marriage service in the case of anyone who had a former partner still living. In November 2002, the House of Bishops issued Advice to Clergy concerning the procedure to be followed when one of the applicants for a marriage licence is a divorced person with a former spouse still living. The Archbishop of Canterbury decided in 2003 to review the policy concerning the issue of Special Licences, and invited the House of Bishops to consider and comment on his proposals. In January 2004, the House of Bishops discussed the issue of both Special and Common Licences in respect of those being married in church after divorce and also where neither party to the marriage has been baptised. The House voted to support the Archbishop's proposals regarding the issue of Special Licences and agreed that the same policy should apply to the issue of Common Licences by Diocesan Bishops.

The General Synod Office has produced for enquiring couples a Form and Explanatory Statement concerning marriage in church after divorce. In future, when a couple wish to apply for a Common Licence, if one of them is a divorced person with a former spouse still living, the clergyman concerned should interview the couple, in accordance with the Advice to Clergy, and ask the couple to complete

the Form and Explanatory Statement. The completed form should be submitted with the application for a Common Licence to the Diocesan Registrar, who will seek the advice of the Bishop. Whilst parishioners normally have the right to be married in the parish church of the parish where they live, a is entitled by law to refuse to remarry a divorced person in church whilst the former spouse is still living.

Marriage of Unbaptised Persons

Where neither party is baptised, the practice in the past has been that applications for a licence should be referred to the Bishop. The House of Bishops now supports the view that the lack of baptism of either or both parties should not in itself be a bar to the granting of a licence to enable a wedding to take place in church, and accordingly there is no longer a need to refer an application to the Bishop when neither party is baptised.

Frequently Asked Questions

Q: Is a Church of England parish priest obliged to marry a parishioner?

A: Yes, unless either (a) one of the parties is divorced and the former spouse is still living, or (b) the marriage is prohibited by law owing to the relationship of the parties, or (c) one of the parties is a minor and the appropriate consent or consents have not been given.

Q: Is it possible to be married in my school or college chapel?

A: Yes, if the Faculty Office is prepared to grant a Special Licence.

Q: Can I be married in the church of the parish where my parents live?

A: If you have a “qualifying connection” - see Marriage Measure 2008 at http://www.opsi.gov.uk/uk-church-measures/2008/ukcm_20080001_en_1

Q: Can I be married at any time of day?

A: A Special Licence can authorise a marriage at any time of day or night, but in the case of the other alternative preliminaries, the marriage must take place between 8.00am and 6.00pm.

Q: What is the cost of a Special Licence?

The fee payable for a **Special Licence** (issued by the Faculty Office in Westminster on behalf of the Archbishop of Canterbury) is **£140.00**. Once the application has been approved, one of the parties will have to swear an affidavit (a formal statement) to confirm the information given. This can be done in front of an Anglican minister (to whom a fee of **£5.00** will be payable) near to where the parties to the proposed marriage reside, or at the Faculty Office (when no extra fee is charged).

Q: Can I have a Roman Catholic (or other non-Anglican) wedding in an Anglican church?

A: No. A Roman Catholic wedding in England must be preceded by civil preliminaries, and must take place in a registered building. An Anglican church is a not a “registered building” for this purpose.

Q: Can a Roman Catholic (or other non-Anglican) be married in an Anglican church, even if it is not possible to have a Roman Catholic (or other) wedding service?

A: Yes. People of any faith can be married in an Anglican church, provided that the Anglican form of marriage service is used. An Anglican priest must conduct the service. For the marriage to be legally valid, there are certain parts of the Anglican marriage service which an Anglican priest must say, including the final blessing, but a clergyman of another denomination may assist with other parts of the service, for example, an address or prayers.

Q: What is the correct terminology for describing the parties to a marriage in marriage certificates?

A: The Registrar General has amended the regulations on registration, following the coming into effect of the Civil Partnerships Act 2004. The terms "bachelor" and "spinster" are no longer to be used in marriage certificates. The alternative terms to be used are as follows:

Single

Widow

Widower

Previous marriage dissolved

Previous marriage annulled

Surviving civil partner

Previous civil partnership dissolved

Previous civil partnership annulled

The same terms will be used in applications for Common Licences.

Recommended Reading for Clergy:

ANGLICAN MARRIAGE IN ENGLAND AND WALES - A Guide to the Law for Clergy

Obtainable from The Faculty Office, 1 The Sanctuary, Westminster, London SW1P 3JT Tel: 0207-222-5381

SUGGESTIONS FOR THE GUIDANCE OF THE CLERGY WITH REFERENCE TO THE MARRIAGE AND REGISTRATION ACTS, ETC.

Obtainable from the General Register Office, Registration Supplies Unit, Smedley Hydro, Trafalgar Road, Birkdale, Southport PR8 2HH