

DIOCESE OF CANTERBURY

The Marriage of Foreign Nationals

The Government has recently enacted the *Immigration Act 2014*, which makes important amendments to the *Marriage Act 1949*. These changes affect all clergy in the Diocese.

Please read this note carefully. You may need to take urgent action.

From Monday 2 March 2015, it will be **unlawful** for the marriage of a non-EEA (European Economic Area) national to be solemnised in the Church of England after the publication of banns or by a Common Licence. **All such weddings will need to be authorised by a Superintendent Registrar's Certificate ('SRC')**.

Any couple wishing to marry in church on or after 2 March 2015 will be legally required to provide evidence of their nationality to clergy. If they do not produce evidence that they are **both** EEA (i.e. British or European Economic Area) Nationals, they will need to apply for an SRC. The accompanying briefing note from the Legal Office of the Church of England includes a list of EEA countries.

The Government is allowing a short transitional period where non-EEA nationals are in the process of applying for a Common Licence for a wedding on or after 2 March 2015. Surrogates have been provided with an application form and a copy is enclosed with this letter. The transitional provisions have not yet been published but a completed application form is expected to be sufficient. Further information will be provided by the Diocesan Registry once available.

If you are aware of an upcoming wedding in your parish involving a non-EEA national, it is **vital** that you contact the couple to alert them to the fact they need to take action quickly. They will either need to obtain a Common Licence before 2 March (which will, as usual, be valid for up to three months from the date the Affidavit is sworn) or complete this new application form, which must be **received by the Diocesan Registry before 5pm on Friday 27 February**. If you are uncertain about anybody's nationality, you should contact the couple and act accordingly.

Unless a Common Licence is obtained or application forms received by the above dates, a Common Licence cannot issue to non-EEA nationals, whatever the merits of the application and whatever their immigration status.

If one of both of the parties is a non-UK National but otherwise an EEA National, in theory Banns may be published BUT we recommend that a Common Licence is the legal preliminary used. A Common Licence will be necessary anyway if one or both of the EEA parties resides outside England and Wales and it offers protection to the clergy, as an Affidavit has to be sworn (or affirmed). A Common Licence ensures the supporting documentation is seen by the Surrogate and by the Registry, thereby affording an extra level of scrutiny.

If you are in any doubt about the validity of the documentation submitted or the bona fides of an EEA National, we recommend that an SRC be obtained.

I continue to ask clergy to be extremely vigilant and remind you of your general duty of care in relation to all marriages.

If you have questions arising out of this note, please contact your local Surrogate or the Diocesan Registry for advice.

This *ad clerum* supersedes my previous note dated June 2011, which is now withdrawn.

A handwritten signature in black ink, appearing to read 'M. Ellis', followed by a long horizontal line extending to the right.

*Morag Ellis QC
Commissary General and Vicar General of the City and Diocese of Canterbury
January 2014*