

The implications of Brexit on Marriage post March 2019

The Registry has been asked to give guidance about the Brexit implications for couples intending to marry after March this year, where one or both of the couple is/are an EEA national. The EEA comprises Norway, Iceland, Lichtenstein and all of the EU states. For the purposes of the Marriage Act rules, Switzerland is included (it is an EFTA member, but is not part of the EEA). The ability of ministers of the Church of England to solemnise the marriage of foreign nationals more generally was limited a few years ago, so that ministers can now only marry British Citizens, EEA State nationals and Swiss nationals, by Banns or Common Licence; other foreign nationals must have a superintendent registrar's certificate (SRC).

This note replaces the note issued in May 2018. Rather prophetically, we said last year "One must remember that *nothing is agreed until everything is agreed* so that what is currently being said is potentially subject to change. Trying to predict what will happen post-Brexit is very difficult."

Our basic view was that "The Registrar thinks that it is much more likely that the government will allow the current system to continue, since it is based on the EEA not the EU." We note that the drafting of the Marriage Act is such that it will continue to operate as presently whether or not the United Kingdom ceases to be an EEA state in its own right (something which is the subject of a treaty that has yet to be ratified by Parliament).

The Registry has now been advised that the Home Office do not intend to make any changes to current practice. We are therefore working on the assumption that the guidance given by the Home Office to the Faculty Office and Dean of Arches will be followed by the government and that for the foreseeable future there will be no effect on the way marriage preliminaries are conducted. However the situation is one which we are closely monitoring.

It therefore remains the law that EEA (and Swiss) citizens who wish to marry post March 2019, may do so, either by Banns or Common Licence. Clergy should remember that Banns or Licences last for 3 months only.

Our understanding is that there would still be no requirement under the Immigration Act 2014 for EEA parties to obtain a 'marriage visa', however intending parties should be advised to check *residence* qualifications with the Home Office : ministers cannot be expected to advise on such matters, and the immigration controls over residence in an EU 'no deal' scenario are currently the subject of statements of policy rather than law.

Ministers should continue to advise intending parties that whilst their marriage in England will continue to be recognised abroad (including within the EU), the financial, property and inheritance consequences of an English marriage, within other countries is not necessarily the same as it is in this country, and that they should take advice if they have property interests abroad or intend to reside abroad including within the EU – this position has not altered. (Issues relating to divorce are still being worked out, but are not covered here!)

We have also been advised that before any substantive changes are made to the current framework as to marriage preliminaries, including those for EEA citizens, the Home Office will consult the Church of England, the Church in Wales and other interested parties. If changes are then proposed, it would be likely that transitional provisions would be required.

The Registry will advise as to any updates and Clergy are reminded to keep a close eye on the Brexit negotiations going forward.

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Joint Diocesan Registrars
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