Guidance note: changes to marriage law following Brexit

Changes to the ecclesiastical preliminaries will apply from 1st July 2021, following UK withdrawal from the European Union.

Following Brexit, The Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020 (Consequential, Saving, Transitional and Transitory Provisions) (EU Exit)

Regulations 2020 have amended the Marriage Act 1949 so far as it relates to the definition of a ‘relevant national’. Only relevant nationals can marry by banns or Common Licence so this is important if you are asked to marry a couple where one or both of them is an EEA or Swiss national.

Until 30 June 2021

Such nationals (UK, EEA or Swiss) can marry following ecclesiastical preliminaries – banns or a common marriage licence.

On and after 1st July 2021

A relevant national changes and will mean:

(a) a British/UK citizen;

(b) an Irish citizen; or

(c) a person who has EU Settlement Scheme settled status, or a pending application

for settled status; or

(d) a person who has EU Settlement Scheme pre-settled status, or a pending

application for pre-settled status (if they had been in the UK <5years).

This means that after 1st July 2021 you cannot marry by banns or common licence anyone who is not a British or Irish citizen or who does not have settled or pre-settled EU status (unless the transitional provisions apply). European citizens will come under the same category as other foreign nationals.

Instead, the options for the couple are to marry by civil preliminaries (the newly named Marriage Schedule) through the Register Office or, in limited cases, an Archbishop’s Special Licence. All local Register Offices will be able to deal with these applications from 1st July.

Transitional provisions

If the banns or common licence process have been started on or before 30th June 2021, they can continue to the wedding even if one of the couple is an EEA national and the marriage is to take place later in July.

This is so long as i) any banns have been called at least once before the end of June so no later than Sunday 27th June 2021

or ii) the couple has given written notice that they want their banns called, by completing a usual banns form and providing evidence of their nationality (usually their passport) on or before 30th June 2021.

With a common licence situation, the marriage can proceed under the ecclesiastical preliminaries if i) their licence has been granted on or before 30th June 2021 and is still valid; or ii) their application for a common licence together with supporting ID documentation has been received by the Registry on or before 30th June 2021.

If these conditions have not been met by 30th June 2021, any couples where one party is not a ‘relevant national’ will need to be directed to the Register Office to complete the necessary application for a Marriage Schedule which they can then produce to the church to authorise the wedding.

Checking settled status

If one or both of a couple say that they have settled status, this needs to be checked on the Government website: <https://www.gov.uk/check-immigration-status>

You will need the person whose status you are checking to:

(a) send you a ‘share code’ – this is created when that person gives you permission to view their status from the online status portal and (b) tells you their date of birth.

Once you have input this information into the government webpage, you should see the person’s photo, name and their status.

Notes

NB 1 A non-EEA citizen can be granted Settled Status if they are a family member of an EEA citizen.

NB 2 EEA citizens travelling to the UK to marry need a mandatory marriage visitor visa issued through the British embassy in the country where they normally reside before coming to the UK

Who to contact

If you have further questions about these changes, please contact the Diocesan Registry – either janet.saxon@harris-harris.co.uk or sarah.williams@harris-harris.co.uk or ring 01749 674747.