



# Church of England Marriage Measure 2008

2008 No. 1

## **1 Marriages solemnized in churches, etc. in parishes with which a party has a qualifying connection**

- (1) A person intending to be married shall have the like, but no greater, right to have the marriage solemnized in a parish church of a parish with which he or she has a connection specified in subsection (3) below (in this Measure referred to as a “qualifying connection”) as that person has to have the marriage solemnized in the parish church of the parish in which he or she resides or which is his or her usual place of worship.
- (2) Where a church or other building<sup>[F1]</sup> or part of a building] licensed for public worship has been designated, under section 29(2) of the Pastoral Measure 1983 (1983 No. 1), as a parish centre of worship, this section shall apply to such centre of worship, while the designation is in force, as it applies to a parish church.
- (3) For the purposes of this section a person has a qualifying connection with a parish in which the marriage is to be solemnized if—
  - (a) that person was baptised in that parish (unless the baptism took place in a combined rite which included baptism and confirmation) or is a person whose confirmation has been entered in the register book of confirmation for any church or chapel in that parish;
  - (b) that person has at any time had his or her usual place of residence in that parish for a period of not less than six months;
  - (c) that person has at any time habitually attended public worship in that parish for a period of not less than six months;
  - (d) a parent of that person has during the lifetime of that person had his or her usual place of residence in that parish for a period of not less than six months or habitually attended public worship in that parish for that period; or
  - (e) a parent or grandparent of that person has been married in that parish.

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- (4) For the purpose of subsection (3)(d) or (e) above “parent” includes an adoptive parent and any other person who has undertaken the care and upbringing of the person seeking to establish a qualifying connection and “grandparent” shall be construed accordingly.
- (5) A person who has the right to have a marriage solemnized in accordance with subsection (1) above shall have the like right to have the banns of that marriage published in the parish church where the marriage is to be solemnized.
- (6) The right to have banns published conferred by subsection (5) above is additional to and not in substitution for the requirements of section 6 of the 1949 Act for banns to be published in the parish church of the parish where the parties to the marriage reside or of each parish in which one of them resides.
- (7) Where a marriage is intended to be solemnized in accordance with subsection (1) above following the publication of banns by virtue of subsection (5) above section 11(2) and (4) of the 1949 Act shall apply as those subsections apply to a marriage of which the banns have been published in a parish or district in which neither of the persons to be married resides by virtue of section 6(4) of that Act.
- (8) Subject to subsection (9) below, a person who wishes to have his or her marriage solemnized in accordance with subsection (1) above shall provide such information, written or otherwise, as the minister of the parish in which the marriage is to be solemnized may require in order to satisfy himself or herself that that person has a qualifying connection and—
  - (a) section 8 of the 1949 Act shall apply as if the reference in that section to a clergyman were a reference to the minister, and
  - (b) the minister shall be under a duty, when considering whether any information provided to him or her is sufficient to satisfy himself or herself under this subsection that the person wishing to have the marriage solemnized has a qualifying connection, to have regard to any guidance issued under section 3 below.
- (9) If the minister considers that it is necessary to do so, in order to satisfy himself or herself that a person has a qualifying connection, he or she may require that person to supply or support any information required to be provided under subsection (8) above by means of a statutory declaration.
- (10) Where a public chapel is licensed by a bishop for the publication of banns and the solemnization of marriages under section 20 of the 1949 Act, this section shall apply as if that chapel were a parish church of the parish or of any parish the whole or part of which is within the district specified in the licence.
- (11) In this section “church” does not include a cathedral.
- (12) In this section—
  - (a) “minister” means—
    - (i) where a special cure of souls has been assigned to any priest for the area in which the church where the marriage is to be solemnized is situated, whether in a team ministry or otherwise, that priest, or
    - (ii) where sub-paragraph (i) above does not apply, the incumbent of the benefice in the area of which that church is situated, or
    - (iii) where neither of the above sub-paragraphs applies, the priest-in-charge of that benefice, or

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- (iv) where none of the above sub-paragraphs applies, in the case of a team ministry, the vicar, if any, appointed by the bishop to act as rector under section 20(14) of the Pastoral Measure 1983 (1983 No. 1) or, if there is no such vicar appointed, the vicar who has held office for the longest period in that ministry, or
    - (v) where none of the above sub-paragraphs applies, the rural dean of the deanery in which that church is situated;
  - (b) “parish” includes a conventional district; and
  - (c) any reference to baptism, confirmation, marriage or public worship shall be construed as a reference to baptism, confirmation, marriage or public worship, as the case may be, according to the rites of the Church of England.
- (13) [<sup>F2</sup>Without prejudice to subsection (3) above,]where, as a result of a pastoral scheme or otherwise, a parish has ceased to exist or the boundaries thereof have been altered and a person who wishes to have his or her marriage solemnized in accordance with subsection (1) above can establish a qualifying connection with a place situated within such a parish then, if that place is, at the time when the notice under section 8 of the 1949 Act is delivered, situated within the parish in which the church where the marriage is to be solemnized is situated, that person shall be deemed to have a qualifying connection with that parish.
- [<sup>F3</sup>(13A) Without prejudice to subsection (3) or (13) above, where a person has had a qualifying connection with a parish (“parish A”) and a church which was a parish church of that parish at the time when that person had the qualifying connection has since become and continues to be a parish church of another parish (“parish B”) that person shall be deemed to have a qualifying connection with parish B.]
- (14) In relation to the establishment of a qualifying connection under subsection (3)(a) above by virtue of confirmation the references in subsection (13) above to a place shall be construed as a reference to the church or other place of worship in whose register the confirmation was entered.

#### Textual Amendments

- F1** Words in s. 1(2) inserted (1.6.2013) by [Church of England Marriage \(Amendment\) Measure 2012 \(No. 1\)](#), **ss. 1(2)**, 3(2); [S.I. 2013/1](#), **art. 2**
- F2** Words in s. 1(13) inserted (1.6.2013) by [Church of England Marriage \(Amendment\) Measure 2012 \(No. 1\)](#), **ss. 1(3)**, 3(2); [S.I. 2013/1](#), **art. 2**
- F3** S. 1(13A) inserted (1.6.2013) by [Church of England Marriage \(Amendment\) Measure 2012 \(No. 1\)](#), **ss. 1(4)**, 3(2); [S.I. 2013/1](#), **art. 2**

#### Commencement Information

- I1** S. 1 in force at 1.10.2008 by [S.I. 2008/2](#), Instrument made by Archbishops

### [<sup>F4</sup>1A Further provisions as to qualifying connections

- (1) Where a person intending to be married has, under section 1 above, a qualifying connection with a parish belonging to a benefice and—
- (a) a direction is in force under section 23 of the 1949 Act in respect of both that benefice and another benefice held in plurality, or

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- (b) a direction is in force under section 23, as extended by paragraph 14(4) of Schedule 3 to the Pastoral Measure 1983, in respect of a church or chapel of that parish and of another parish in the same benefice,
- the marriage may be solemnized and the banns of the marriage may be published under and in accordance with section 1 in any church or chapel specified in the direction.
- (2) Where—
- (a) a parish church, or a public chapel to which section 1(10) above applies, is being rebuilt or repaired and on that account is not being used for divine service, and
- (b) a person intends to be married on the basis of a qualifying connection under section 1 with the parish in which that church or chapel is situated,
- the marriage of that person may be solemnized and the banns of that marriage may be published under and in accordance with section 1 in any building in which, under section 18 of the 1949 Act, the marriage could be solemnized and the banns published, whether or not that building is situated within that parish.
- (3) Section 6(3) of the 1949 Act shall apply for the purposes of section 1 above as it applies for the purposes of section 6 of that Act and a person who has the right to have banns published in an adjoining parish under that subsection shall be deemed to have a qualifying connection under section 1 with that parish.
- (4) Where a church or other building or part of a building licensed for public worship has been designated, under section 29(2) of the Pastoral Measure 1983, as a parish centre of worship and the parish has no parish church, section 29(3) of that Measure shall apply for the purposes of section 1 above.]

#### Textual Amendments

**F4** S. 1A inserted (1.6.2013) by [Church of England Marriage \(Amendment\) Measure 2012 \(No. 1\)](#), ss. 1(1), 3(2); S.I. 2013/1, art. 2

## 2 Marriage by common licence

- (1) Notwithstanding section 15 of the 1949 Act a common licence may be granted to a person for the solemnization of a marriage in any church or chapel in which that person may be married under section 1 above and section 16(1)(b) of that Act shall, where a common licence may be granted by virtue of this section, have effect as if it required one of the persons to be married to swear that one or both of those persons has a qualifying connection with a parish within the meaning of section 1(3) above and to state the nature of that connection and section 1(8) above shall apply as if the reference therein to the minister of the parish were a reference to the authority having power to grant the licence.
- (2) Where an application has been made for the grant of a common licence under subsection (1) above section 1(13) above shall have effect as if the reference to the date on which the notice required under section 8 of the 1949 Act is delivered were a reference to the date of the application for the grant of the common licence.

*Changes to legislation: There are currently no known outstanding effects for the Church of England Marriage Measure 2008. (See end of Document for details)*

#### Commencement Information

**I2** S. 2 in force at 1.10.2008 by [S.I. 2008/2](#), Instrument made by Archbishops

### 3 Guidance

The House of Bishops shall from time to time issue guidance as to the exercise of any functions by a minister under section 1(8) or (9) above or by the authority having power to grant a common licence under section 1(8) as applied by section 2 above.

#### Commencement Information

**I3** S. 3 in force at 1.10.2008 by [S.I. 2008/2](#), Instrument made by Archbishops

### 4 Supplementary provisions

- (1) In this Measure “the 1949 Act” means the Marriage Act 1949 (12, 13 & 14 Geo 6 c. 76) and, unless the context otherwise requires, expressions used in this Measure have the same meaning as in the 1949 Act.
- (2) Where a marriage has been solemnized—
  - (a) in accordance with section 1(1) above, or
  - (b) on the authority of a common licence granted by virtue of section 2 above,it shall not be necessary in support of the marriage to give any proof that either party had a qualifying connection with the parish in which the marriage was solemnized and no evidence shall be given to prove the contrary in any proceedings touching the validity of the marriage.

#### Commencement Information

**I4** S. 4 in force at 1.10.2008 by [S.I. 2008/2](#), Instrument made by Archbishops

### 5 Citation, commencement and extent

- (1) This Measure may be cited as the Church of England Marriage Measure 2008.
- (2) This Measure shall come into force on such day as the Archbishops of Canterbury and York may jointly appoint and different days may be appointed for different provisions.
- (3) This Measure shall extend to the whole of the provinces of Canterbury and York except the Channel Islands and the Isle of Man, except that the provisions thereof may be extended to the Channel Islands as defined in the Channel Islands (Church Legislation) Measures 1931 and 1957 or either of them, in accordance with those Measures, and, if an Act of Tynwald or an instrument made under an Act of Tynwald so provides, shall extend to the Isle of Man subject to such exceptions, adaptations or modifications as may be specified in the Act of Tynwald or instrument.

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**Commencement Information**

**I5** S. 5 in force at 1.10.2008 by [S.I. 2008/2](#), Instrument made by Archbishops

**Changes to legislation:**

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