

M7 Consents for the marriage of minors

Summary of Learning Points

When you have read this Chapter you will have learnt the following:

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M7 Consents for the marriage of minors

Verification of age

1. In every case the party giving notice must produce evidence of age before the notice can be entered < REDACT >. An unfinished notice is not deemed to have been given and the 28 day waiting period will not commence until the outstanding documents have been produced, < REDACT >

Persons under 18 years of age

2. If either of the parties to a proposed marriage is under the age of 18 years and is not a widower, widow or surviving civil partner, the superintendent registrar must establish whose consent is legally required and be satisfied that the appropriate consents have been obtained, or that any such consents have been dispensed with, or that no consent is required. The consent of the following person(s) is required by law:
 - a.
 - (i) each parent (if any) who has parental responsibility (see M7.8); and
 - (ii) each guardian (if any) of the child (see M7.9); or
 - b. the power of consent has been granted by a court

Evidence of whose consent is required

3. Evidence should be produced to confirm that the consent has been given by the person(s) whose consent is actually required. Such evidence may include the child's full birth certificate to determine parentage and legitimacy, a parental responsibility agreement or order, a certified copy of a custody, care or residence order, any separation agreement or written appointment of a guardian.
4. If a person is not a widower, widow or a surviving civil partner and is under the age of 18 years but will attain 18 years on or before the date on which the superintendent registrar's certificate for marriage is due to be issued, it is not necessary to obtain the consents normally required. For example, if a party is 18 on 1 June, the notice cannot be taken before 3 May if the need to obtain consent is to be avoided.
5. Where the commanding officer of one of HM ships at sea has issued a certificate for a marriage to take place in England or Wales in respect of a minor serving in the ship as an officer, seaman or marine, the superintendent registrar of the district in which the other party lives, and to whom notice must also be given, must satisfy himself that the consents required to the marriage have been given or have been dispensed with or that no consent is required.
6. For the purposes of consent a child who has been legally adopted in England, Wales, Scotland, Northern Ireland, the Isle of Man, the Channel Islands or any of the countries or territories listed in Appendix 3, is treated as the child of the adopter(s).
7. If the superintendent registrar is not sure whether a child was adopted under one of the Acts, the matter should be referred to the Registrar General.

Parental responsibility

8. “Parental responsibility” is defined as “all the rights, duties, powers, responsibilities and authority which by law a parent of a child has in relation to a child and his property”

Where the child’s father and mother were married to each other at the time of the birth, they both have parental responsibility for the child. The consent of both parents will be required unless the Court has granted a custody order (in proceedings instigated prior to 14 October 1991), made a residence order (after 14 October 1991) or in circumstances where the child is or has been the subject of a care order.

A person whose father and mother were married to each other at the time of his birth includes:

- a. a person who is treated as legitimate by virtue of section 1 of the Legitimacy Act 1976; or
- b. a person who is a legitimated person within the meaning of section 10 of the Legitimacy Act 1976, or
- c. a person who is an adopted child within the meaning of Part IV of the Adoption Act 1976; or
- d. a person who is otherwise treated in law as legitimate.

9. Where the child’s father and mother were not married to one another the mother only has parental responsibility (subject to any care or residence orders in force). The father may, however, also (in addition to the mother) acquire parental responsibility in the following ways:

- a. by applying to the court for a parental responsibility order; or
- b. by applying to the court for a residence order (in which case the court will also be required to make a parental responsibility order.); or
- c. by making with the mother a formal parental responsibility agreement and filing a copy with the Principal Registry of the Family Division of the High Court at Somerset House; or
- d. where his particulars are recorded in an entry of birth registered or re-registered after 1 December 2003 on the joint information of both parents or on the information of one parent with a statutory declaration acknowledging paternity from the other parent.

A person who has acquired parental responsibility shall cease to have that responsibility only if the court so orders.

Orders made by the court

10. Any order made by the court with regard to parental consent should be referred to the General Register Office for advice.

Ward in Chancery

11. The consent of the High Court is necessary to the marriage of a ward of Court, and the superintendent registrar should not accept a notice in such a case until he is satisfied that the High Court has given its consent to the marriage.

Obtaining consent in writing

12. Forms of consent are supplied by the Registrar General or they can be printed from the General Register Office website (Form 55).

Where the parties of the proposed marriage live in different districts the consent form should be issued by the superintendent registrar of the district in which the party under age 18 resides. If both parties are under 18 and live in the same district, or if they live in different districts a form should be issued to each party by the superintendent registrar of the district(s) in which they reside. In all cases the superintendent registrar should establish whose consent is legally required and explain how the form should be completed.

13. These forms are not prescribed and where written consent in any other form, such as a letter, may be accepted as long as it states the names of both parties to the marriage. If the parents or guardians are abroad their signatures to the consents should be properly witnessed, preferably by a notary public or person empowered to administer oaths in that country. If the parent/guardian signing the form abroad is a British national, then a consular officer acting for the nearest British **Embassy or Consulate** may be **able** to witness it **as a last resort and only where local notaries public are unable to witness documents in English. Consular staff in Commonwealth countries cannot witness documents or provide any type of notarial service.** Written consent, in whatever form, should as far as possible be examined for authenticity.

Accepting notice of marriage

14. **< REDACT >** If the notice giver cannot declare that the relevant consent has been obtained then the notice cannot be taken.

Letter to parent or guardian

15. In order to guard against the marriage of a person under 18 being solemnized without the knowledge and consent of the parents or guardian, even though a consent form purporting to have been signed by the parents or guardian may have been produced, superintendent registrars are advised to send a letter in a plain sealed envelope to the parents or guardian of the child acknowledging the receipt of consent to the marriage, and giving, wherever possible the date and place of the intended marriage. The following is a suggested form of letter.

Dear Sir/Madam

I am writing to inform you that notice for marriage at(venue)
between and has today been given by your
son/daughter and that your consent to the marriage has been received.

The time and date arranged for the ceremony is (or No date has
yet been fixed for the ceremony).

Yours faithfully

Superintendent Registrar

Young persons from abroad

16. Where notice of marriage is given in respect of a young person from abroad who, although over the age of 18 years, might require parental or other consent for a marriage in his or her own country, the superintendent registrar should advise that person to consult the appropriate Consular authority. Although the marriage can be validly celebrated in England it may be possible for it to be annulled by the courts of the country concerned. The minimum age at which parties ordinarily resident in the Irish Republic may marry is 18 unless an exemption has been granted under Section 33 of the Family Law (Ireland) Act 1995.

Dispensation with necessity for consent

17. If the superintendent registrar is satisfied that the consent of any person whose consent is required by Section 3(1) of the Marriage Act cannot be obtained by reason of absence or inaccessibility or by reason of his being under any disability, the superintendent registrar is required to dispense with the necessity for the consent of that person, whenever there is another person whose consent is also required. The power of the superintendent registrar to dispense with the necessity for a consent is limited to those cases where the consent of two or more persons is required and only one of those persons has given consent.

18. Where it appears to the superintendent registrar from the information supplied to him by the party giving the notice, that he is required by the Act to dispense with the consent of any person whose consent is required, it is recommended that he should obtain a written statement from the parent or guardian whose consent has been given of the reasons why the other consent cannot be obtained. < REDACT > The statement should be appended to the signed notice.

19. Where the consent of a person whose consent is required cannot be obtained due to absence, inaccessibility or disability, and there is no other person whose consent is required, the Registrar General may dispense with the necessity of obtaining that consent, (see paragraph 21 below) or the court may, on application, give consent to the marriage. The consent of the court has the same effect as if it had been given by the person whose consent cannot be obtained.

20. If any person whose consent is required refuses his consent, the court may, on application, consent to the marriage, and the consent of the court has the same effect as if it had been given by the person whose consent is refused. When the consent of the court is required application may be made to the High Court, or to the County Court or a Court of Summary Jurisdiction in the area where the child resides or in the area of residence of the parent.

21. Where the case is to be referred to the Registrar General all information possible should be obtained including the following:

- a. a draft copy of the notice, completed manually;
- b. a full statement of the relevant facts, including whether the age of the young person has been verified and if so by what means;

- c. a statement by an elder relative of the young person or by the person in whose care he/she has been, confirming the absence, inaccessibility or disability of the person whose consent cannot be obtained. The statement should indicate whether the person making it is in favour of the marriage, and, if not, the reason for the objection;
- d. the superintendent registrar's opinion of the proposed marriage if he/she feels able to give one.

This will assist the Registrar General in making the decision as to whether or not dispensation should be granted.

22. < REDACT >

M7 Evaluation of Learning

When you have finished reading this Chapter you may wish to evaluate what you have learnt by answering the following questions. The answers to these questions are at the end of the Handbook.

- Q1.** A British couple attend the register office to give notice of their intention to marry. They produce their passports confirming the groom is 19 years old and the bride is 17 years old. They wish to marry before the bride will reach 18. She states that her parents are married to each other and they know about the marriage. Explain what action should be taken.
- Q2.** A 16 year old groom attends to give notice of his intention to marry his 18 year old British girlfriend. He produces a British passport and a full birth certificate showing his adopted parents. Further questioning reveals that his adoptive parents do not wish him to marry but he states he is now in touch with his natural mother who is happy to give her consent to the marriage. Explain if notice can be taken.
- Q3.** A British couple attend to give notice of their intention to marry. They are both 17 years old and will not be 18 by the time they wish to marry. The groom states his parents were married at the time of his birth, but that his father is deceased. The bride states that her parents were also married to each other at the time of the birth, but they are now divorced. Explain what documentation should be requested.
- Q4.** A 17 year old Somalian girl with indefinite leave to remain in the UK attends with her British boyfriend to give notice of their intention to marry. She states she came to the UK a few years ago to live with her uncle following the death of her parents and has a letter from the Home Office to confirm this. Explain what action should be taken.