

M10 Marriage of housebound and detained persons

Summary of Learning Points

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

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1. How to determine if a marriage can take place under the provisions when a person is housebound or detained	1 - 12
2. What action is required before a notice can be attested including	
(i) statements required	13 -16
(ii) the declaration required regarding by or before whom the marriage will be solemnized	17
3. Where the notice can be attested	18 - 20
4. How to complete a notice including	
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(v) where one party is resident in Scotland, or at sea, or under the provisions of the Marriage of British Subjects (Facilities) Acts 1915 and 1916	27
5. When the notice can be locked including	
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(i) if it is a civil marriage	30 - 31
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An example of a notice of marriage is at the end of the chapter

M10 Marriage of housebound and detained persons

General

1. This Chapter deals with the procedure to be followed and actions to be taken when an application is received for a marriage of a housebound or detained person to be solemnized at the place where he/she resides.

2. A housebound person is one in respect of whom a statement is made by a registered medical practitioner, not more than 14 days before the date on which notice is given, that by reason of illness or disability he or she ought not to move or be moved from his/her home, hospital or other place where he/she is at that time, and that illness or disability is likely to continue to immobilize that person for at least the three months following the date on which the statement is made. A housebound person will be considered to reside at the place where he/she is, for the time being.

3. A detained person is one detained in a mental hospital or prison in respect of whom a statement is made by the responsible authority for the place of detention, not more than 21 days before the date on which notice is given, that there is no objection to that place being specified in the notice of marriage as the place where that marriage is to be solemnized. A detained person will be considered to reside at the place of detention. A detained person is not a housebound person.

4. The marriage of a housebound or detained person may be solemnized by civil ceremony, according to the rites of the Church of England/Church in Wales or according to a relevant form, rite or ceremony.

5. The housebound and detained provisions do not apply to marriages according to the usages of the Jews or the Society of Friends because these marriages may be solemnized at any specified location in England and Wales. Where the marriage of a housebound or detained person is to be solemnized by the rites and ceremonies of either the Jews or the Society of Friends, the normal notice procedures will apply.

6. Notice of marriage must be given by each party to the superintendent registrar of their district of residence, unless one or both parties are subject to immigration control as [notice must be given together to the superintendent registrar/deputy superintendent registrar from the nearest specified registration district \(also known as a designated register office\)](#).

Where the person is housebound, the notice should be attested at the residence of that person.

Unless a detained person can attend the register office, the notice should be taken at the place where that person is detained.

Further guidance on attesting the notice is at M10.18-20.

7. Each notice must be accompanied by an appropriate statement from the medical practitioner or responsible authority. **< REDACTED >**

8. If the marriage is to be a civil one the superintendent registrar and registrar must attend as they would a register office marriage but an additional fee is payable for the attendance of the superintendent registrar. For any religious marriage, other than according to the rites of the Church of England/Church in Wales, a registrar must attend the marriage and register it. Authorised Persons, as such, have no duty to perform. Marriages according to the rites of the Church of England, although preceded by civil preliminaries, are solemnized and registered by a member of the clergy.

9. For a religious marriage, other than according to the rites of the Church of England/Church in Wales, of a same sex couple then when attesting each notice of marriage the superintendent registrar will need to check that the relevant governing authority have given their written consent to the marriage of same sex couples. When determining whether the relevant governing authority have given their consent then the superintendent registrar may initially wish to contact GRO who will hold a list of relevant governing authorities who have given their consent. If the relevant governing authority is not on the list, then the superintendent registrar will need to ask the couple to obtain this written confirmation from the authority concerned, possibly via the officiating minister.

10. The relevant governing authority means the person or persons recognised by the members of the relevant religious organisation as competent for the purpose of giving consent for the purposes of this section. Relevant religious organisation means the religious organisation according to whose rites or usages the marriage is to be solemnised. If the parties have any doubts about who the relevant governing authority is then the officiating minister may be able to advise.

11. The following paragraphs set out in detail the procedures to be followed in dealing with an application for the marriage of a housebound or detained person. Unless otherwise instructed in this part, officers should follow the normal procedures at M2 to M9 and M14 to M16 (e.g. impediments to marriage, [referral to Home Office Immigration](#), consent, condition, discrepancies in the notices, objections, issue of superintendent registrar's certificate for marriage). In any case of doubt the registration officer should telephone General Register Office for advice.

12. The responsible authority for the place of detention has the authority to allow a detained person to be released (usually under escort) in order that he/she may be married in a Church of England/Church in Wales church, a register office, a registered building or other place where marriages are solemnized. In such a case the normal preliminaries must be observed, including attendance at the register office to give notice and no statement is required from the responsible authority.

Attestation of notice

13. Before notice is attested the superintendent registrar should explain that certain additional information will be required and issue the Form 40 or Form 41 as appropriate. The leaflet describing procedures for the objection to a marriage (Form 351) should be issued with Form 40.

14. For a housebound person, a statement in the prescribed form (Form 40) from a medical practitioner will be needed. A statement must be obtained for each notice of marriage and each statement must be made not more than fourteen days before the date on which the respective notice is entered on **< REDACTED >**

15. For a detained person, a statement in the prescribed form (Form 41) from the authority responsible for the place of detention will be needed. A statement must be obtained for each notice of marriage and each statement must be made not more than twenty one days before the date on which the respective notice is entered on **< REDACTED >**

16. Where the parties reside in different registration districts one of the above statements, as appropriate, must be produced to the superintendent registrars of both districts. Each superintendent registrar should retain a statement with the records of their office.

17. Each person who gives notice is also required to give the superintendent registrar

the particulars of the person by or before whom the marriage is intended to be solemnized. This declaration is printed in the prescribed form on the reverse side of the notice, and must be retained by the superintendent registrar with the records of his office.

Place of attestation

18. British/EEA/Swiss and non-EEA nationals who are exempt from immigration control (see M3.3), each give a notice to the superintendent registrar of the registration district where they have each resided for the previous 7 days.

19. Where one party is, or they both are, subject to immigration control (See M3.4), both notices will be taken by the superintendent registrar/deputy superintendent registrar of a specified registration district (also known as a designated register office) at the place where the person is housebound or detained. Where the housebound or detained person does not reside in a specified registration district a superintendent registrar/deputy superintendent registrar from the nearest specified registration district will normally be required to attend and attest the notice.

20. When a superintendent registrar is asked to attend at the residence of the housebound or detained person to attest the notice he is entitled to receive the fee shown in Appendix 1 for such attendance elsewhere than at his office. This is in addition to the usual fee for entry of notice in the notice book.

Completion of notice

21. The notice should be completed in accordance with the instructions, where applicable, contained in M6. < REDACTED >

22. In column 7 of the notice the address of the place where the marriage is to be solemnized must be fully and accurately described. If the marriage is to take place in an institution, the accepted alternative address must be used. Words such as 'prison' or 'psychiatric hospital' must not be entered. If a superintendent registrar is not aware of the alternative description in use for any particular institution, he should consult the authorities and agree an alternative address which does not disclose its nature.

23. < REDACTED >

24. < REDACTED >

25. The declaration on the reverse of the notice must be completed and signed by the party giving notice. This declaration gives the superintendent registrar the particulars of the person by or before whom the marriage is intended to be solemnized.

26. A further declaration on the reverse of the notice serves as a receipt for the payment of the statutory fee for the attendance of a superintendent registrar to attest notice other than at his office (see Appendix 1).

27. Notice can be taken for a housebound or detained person where the other party resides in Scotland, is at sea or resides in one of the countries listed in M12.13 and notice is being given under the provisions of the Marriage of British Subjects (Facilities) Acts 1915 and 1916. However this does not apply to couples when one or both parties are subject to immigration control (See M3 and M12 for further guidance).

28. Where there is no access to the internet, or in the event of short-term system failure, the notice should be taken manually on Form 48, Form 48A, Form 49 or Form 49A, as appropriate. The initial statement should be amended to show that the notice is valid for 3 months only. < REDACTED > Superintendent registrars should be aware that

couples who have been referred to Home Office Immigration (HOI), and have had their waiting period extended to 70 days may have less than 20 days following the issue of the certificate for marriage in which to marry. They should ensure that couples make their plans accordingly.

Issue of superintendent registrar's certificate

29. The superintendent registrar should follow the instructions where applicable contained in M16.

Solemnization and registration

Civil marriages

30. A civil marriage must be solemnized in the presence of the superintendent registrar and a registrar for the district in which it takes place. It must be registered by the registrar at the place of residence. The ceremony should not take place in religious premises (e.g. Hospital Chapel or Prison Chapel).

31. The marriage must be registered by the registrar at the place of residence, in the same way as he would register a marriage in a register office. The place of marriage should be recorded as shown on the superintendent registrar's certificate as this will often be the address agreed upon as an accepted alternative address for an institution.

Marriages according to a relevant form, rite or ceremony

32. A 'relevant form, rite or ceremony' means a form, rite or ceremony of a body of persons who meet for religious worship in any registered building. The marriage must be solemnized in accordance with the form, rite or ceremony used by members of that body when they marry in any such registered building. It must be solemnized in the presence of a registrar for the district in which it takes place. The parties are responsible for the attendance of the minister or other person conducting the ceremony. It is advisable for the superintendent registrar of the district where the marriage is to take place to confirm the attendance arrangements and the form that the ceremony will take with the minister or other person named in the notice of marriage. If the minister or other person named in the notice of marriage is unable to attend, the ceremony may proceed with another minister or other person conducting the ceremony but the ceremony must be of a relevant form, rite or ceremony as described above. If a registration officer is uncertain as to whether a particular form, rite or ceremony is relevant, he should telephone General Register Office for advice.

33. The marriage must be registered by the registrar at the place of residence, in the same way as he would register a marriage in a registered building not in the presence of an authorised person. Even if the minister or other person conducting the ceremony is an authorised person, he is not authorised to register it. The place of marriage should be recorded as shown on the superintendent registrar's certificate as this will often be the address agreed upon as an accepted alternative address for an institution.

Church of England/Church in Wales marriages

34. A ceremony according to the rites of the Church of England/Church in Wales must be preceded by notice and not by ecclesiastical preliminaries. The marriage must be solemnized and registered by a member of the clergy of the Church of England/Church in Wales and must be registered in the marriage registers of any Church of England/Church in Wales church or chapel which is in the same parish or extra parochial place as is the place where the marriage is solemnized. If there is no such church or chapel, the marriage must be registered in the marriage registers of any Church of England/Church in

Wales church or chapel in any adjoining parish.

Fees

35. A superintendent registrar is entitled to receive the fees shown in Appendix 1, as follows:

- a. For attending elsewhere than at his office to attest notice;
- b. For entering notice of marriage on < REDACTED >
- c. For attending a civil marriage at a person's residence.

36. A registrar is entitled to receive the fee shown in Appendix 1 for his attendance at a person's residence to register the marriage.

Example of a notice of marriage

Marriage under Section 27A of the Marriage Act 1949 to take place at the home of the person who is house-bound.

M10 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 gentleman attends the register office and explains that his fiancé is housebound due to her agoraphobia and they would like to marry in a civil ceremony at their home address. They are both British and neither have been married previously. What action should be taken and what advice should be given?
- Q2.** A British national attends to give notice of marriage to marry her French fiancé who is currently serving a 10 year prison sentence. Both parties have not been married before. She states that the governor will not release her partner for a register office marriage but is agreeable for the marriage to take place at the prison. Explain if the notice of marriage may be taken and the advice that should be given.
- Q3.** What two extra declarations must be made on the reverse of the notice of marriage taken for a marriage of a housebound or detained person?
- Q4.** A Church of England vicar contacts the register office on behalf of two of his parishioners who would like to be married according to the rites of the Church of England at their home address, one of the parties is housebound. The couple have never been married before and both parties are British. What advice should be given to the vicar with regard to the preliminaries and registration of the marriage?
- Q5.** A lady attends to give notice of her intention to marry her fiancé in hospital. They wish to have a basic civil ceremony with just a few close family and she has brought the completed Form 40 which was dated 3 days earlier. Arrangements have been made to attend the hospital later that day to attest the gentleman's notice. When completing column 7 she explains that the hospital staff have suggested they may wish to use the hospital chapel for the ceremony as it is quiet and not as busy as the ward. Explain if this would be possible.
- Q6.** List the duties for which a superintendent registrar and registrar are entitled to receive fees when attesting a housebound or detained notice of marriage and attending a housebound or detained marriage ceremony.
- Q7.** You receive a request from two male partners one of whom is housebound who wish to marry according to the rights of the Unitarian Church. What additional information should you request?