

## M12 Marriage in England and Wales where one party is resident outside England and Wales

### Summary of Learning Points

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

	Paragraph
<b>1. Whether a notice of marriage can be taken for a marriage in England or Wales when one party is resident in Scotland and</b>	
(i) requirements for giving notice	1
immigration control	
(ii) where notice must be given	2 - 3
(iii) how to complete the notice	4 - 5
(iv) when the Superintendent Registrar's certificate can be issued and its validity	6 - 8
(v) entering the notice on < REDACTED >	
9 -12	
(vi) the marriage is in the Church of England/Church in Wales	13
(vii) the marriage is at the residence of a housebound or detained person	14
<b>2. That there is no provision to take a notice of marriage if one party is resident in Northern Ireland</b>	15
<b>3. That there is no provision to take a notice of marriage if one party is resident in the Irish Republic</b>	16
<b>4. Whether a notice of marriage can be taken for a marriage in England or Wales when one party is resident in the Channel Islands, the Isle of Man or other Commonwealth country listed in M12.14 and</b>	17 - 23
(i) what to do if one or both parties are subject to immigration control	19
(ii) where and when notice must be given and its validity	20
(iii) how to complete the notice	21
(iv) the marriage is at the residence of a housebound or detained person	22
(v) use of manual forms	23
<b>5. Whether a notice of marriage can be taken for a marriage in England or Wales when one party is at sea and</b>	24 - 31
(i) where and when notice must be given and its validity	24 - 25
(ii) how to complete the notice	26 - 27
(iii) the marriage is in the Church of England/Church in Wales	28
(iv) the marriage is at the residence of a housebound or detained person	29
(v) what to do if one or both parties are subject to immigration control	30

## **M12 Marriage in England and Wales where one party is resident outside England and Wales**

### **One party resident in Scotland**

1. A superintendent registrar may accept notice of marriage to take place in England and Wales by either civil ceremony or religious rites where one party is resident in England or Wales, the other is resident in Scotland and neither party is subject to immigration control. (For marriage in Scotland see M13). There is no provision for a superintendent registrar to accept a notice of marriage when both parties are residing in Scotland.
2. Where one of the parties is, or they both are subject to immigration control, both notices will have to be given to the superintendent registrar/deputy superintendent registrar of a specified registration district (also known as a designated register office) in England or Wales by the couple attending together. They both must have seven day's residence in a registration district in England or Wales.
3. The party resident in England and Wales should give notice to the superintendent registrar of the district in which he has been resident for the 7 clear days immediately prior to giving notice. The party resident in Scotland should give notice of marriage to the registrar for the district in which he lives. There is no specific residential qualification required for the party in Scotland to give notice. Neither party can give notice on behalf of the other.
4. The details in the notice should be completed in accordance with the instructions in M6.
5. If the party giving notice does not know the name of the Scottish registration district of residence of the other party the last column in the notice may be completed by repeating the place of residence of the party.
6. The Scottish registrar may issue a certificate of no impediment (see Example 1, M17) after **28** days from the date of the receipt of the notice (**i.e. on the 29<sup>th</sup> day**). This certificate will be valid for 3 months from the date the notice was given in Scotland.
7. The superintendent registrar's certificate will be valid for 3 months from the date the notice given in England or Wales was entered on **< REDACTED >** The marriage must take place while both the Scottish certificate of no impediment and the superintendent registrar's certificate are valid (see M17.12c).
8. The Scottish registrar's certificate of no impediment must be produced to the registrar or other person registering the marriage, together with the certificate for marriage issued by a superintendent registrar in England or Wales.
9. **< REDACTED >** The details in the notice should be completed in accordance with the instructions in M8.
10. For party 2, the postcode software can be used to find the Scottish address. However, the name of the Scottish registration district does not appear in the drop down list to select from so the district has to be typed in the 'registration district' field. If the party giving notice does not know the name of the Scottish registration district

of residence of the other party, the field should be completed with the name of the town of residence.

11. When taking a notice where the party resident in England or Wales is a housebound or detained < REDACTED > In these circumstances the housebound and detained declarations must be written on the reverse of the notice and completed and signed by the person giving the notice of marriage.

12. In the event of short-term system failure the notice should be taken manually on Form 48 or Form 48A as appropriate. If the party giving notice does not know the name of the Scottish registration district of residence of the other party the last column in the notice may be completed by repeating the place of residence of the party.

13. An Anglican marriage where one party is resident in England or Wales and the other party is resident in Scotland may take place on the authority of an ecclesiastical licence or on the production of a superintendent registrar's certificate together with a Scottish registrar's certificate of no impediment. The latter procedure also requires the agreement of the officiating clergyman and the superintendent registrar should ensure that such agreement has been obtained before accepting notice in these cases. **NB this does not apply to the marriage of same sex couples.**

14. A marriage at the place of residence of a housebound or detained person may take place only on the authority of a Scottish registrar's certificate of no impediment and a superintendent registrar's certificate.

#### **One party resident in Northern Ireland**

15. There is no provision under which a superintendent registrar may accept notice for a marriage to take place in England and Wales where one party is resident in England or Wales and the other party is resident in Northern Ireland. Both must have a residential qualification in England and Wales before notice can be given.

#### **One party resident in the Irish Republic**

16. There is no provision under which a superintendent registrar may accept notice of marriage to take place in England or Wales where one party is resident in England or Wales and the other party is resident in the Irish Republic. Both must have a residential qualification in England and Wales before notice can be given.

#### **One party resident in the Channel Islands, the Isle of Man or certain countries of the British Commonwealth under the Marriage of British Subjects (Facilities) Acts 1915 and 1916**

17. Under the Marriage of British Subjects (Facilities) Acts 1915 and 1916, a superintendent registrar may accept notice for marriage to take place in England and Wales between two United Kingdom nationals (as defined in M13.26) where one is resident in England or Wales and the other is resident in one of the commonwealth countries/territories listed below (The marriage may also take place in the country of residence of the other party - see M13.27 for further guidance).

Bahamas  
Barbados  
Belize

Mauritius  
New Zealand  
Nigeria

Bermudas or  
 Somers Island  
 Botswana  
 Canada (Newfoundland only)  
 Cyprus  
 Dominica  
 Eswatini  
 Fiji  
 Gambia, The  
 Ghana (former Gold Coast Colony only)  
 Gibraltar  
 Gilbert and Ellice Islands Colony  
 Grenada  
 Guernsey (Balliwick of) which includes  
 Alderney  
 Isle of Man  
 Jamaica  
 Jersey  
 Kenya  
 Leeward Islands  
 Lesotho  
 Malawi  
 Malaysia (former Straits Settlement of  
 Labuan, Malacca and Penang only. This  
 Does not include Kuala Lumpur)

Pacific Protectorate (which means any  
 island or group of Islands, or place  
 under the jurisdiction of HM High  
 Commissioner for the Western  
 Pacific)  
 St Lucia  
 St Vincent  
 Seychelles  
 Sierra Leone  
 Somers Islands or Bermudas  
 Sri Lanka  
 Tanzania (Zanzibar only)  
 Trinidad and Tobago  
 Uganda  
 Zambia  
 Zimbabwe

It should be noted that although the whole island of Cyprus is a member state of the EEA and all Cypriots are EEA nationals, at the present time a person who can only present a travel document from “the Turkish Republic of Northern Cyprus” (TRNC) is subject to immigration control unless they can also produce a document showing that they are entitled to citizenship of the Republic of Cyprus.

Additions to and changes in the list of territories above may occur from time to time, and in any case of doubt or of an application in respect of a territory not appearing in the list, the officer should refer to GRO.

18. In the case of the marriage of a same sex couple, then the superintendent registrar should advise the party living in one of the countries listed above to check with the relevant British High Commission as to whether their marriage would be legal under the laws of that country.

19. Where one or both parties are subject to immigration control both notices will have to be given to the superintendent registrar/deputy superintendent registrar of a specified registration district (also known as a designated register office) in England or Wales by the couple attending together. They will both have to have seven day's residence in a registration district in England or Wales.

20. If a person wishes to give notice of marriage under these Acts to a person (who is exempt from immigration control) residing in one of the countries named in M12.17, the superintendent registrar may accept the notice making it quite clear that the party abroad must also give notice of marriage, or have banns published, as the case may be according to the law of the place of residence of that party. A certificate of notice of marriage or the publication of banns in respect of the party abroad must be produced before the marriage takes place. Such a certificate will have the same effect as a certificate for marriage issued by another superintendent

registrar and may be accepted as such. However, it should be noted that while the certificate issued by a superintendent registrar in England or Wales will be valid for twelve months, this may not necessarily be the case in respect of the certificate issued in the other country.

The marriage must take place at a time when both certificates are still valid. It is not necessary for the certificate produced by the party who resides abroad to make reference to the fact that it was issued under the Acts.

21. When taking the notice the 'British Subjects Facilities Acts 1915 and 1916' notice option should be selected from the drop down list on < REDACTED >. When entering the address of party 2 the details should be keyed in the appropriate fields. The country of residence can be selected from the drop down list or keyed in the 'country of residence' field.

22. A notice may be taken under these Acts for a marriage in England or Wales where the party giving notice is a housebound or detained person. The 'British Subjects Facilities Acts 1915 and 1916' notice option should be selected from the drop down list on < REDACTED >. In these circumstances the housebound and detained declarations must be written on the reverse of the notice and completed and signed by the person giving the notice of marriage. The initial statement should be amended to show that the notice is valid for three months.

23. In the event of short-term system failure the notice should be taken on Form 48 or Form 48A as appropriate. The notice should be taken in accordance with the instruction for short-term system failure in M6, with the following amendments:

- a. in the general heading the words 'and Marriage of British Subjects(Facilities) Acts 1915 and 1916' should be added after the words 'Marriage Act 1949, section 27(1)' in the shoulder note at the top right hand side of the notice form;
- b. the country of residence should be entered in column 8 for the party living outside England and Wales;
- c. declaration 2 should be amended to show that only the person giving notice has for the preceding seven days had his/her usual place of residence in the district in which notice is given:
- d. where either of the parties is under age 18 and not a widower or widow, the declaration as to consent which is required by English law must be completed.
- e. the initial statement should be amended to show that the notice is valid for three months.

### **One party at sea**

24. A notice can be accepted for a marriage between a male or female officer, seaman or marine borne on the books of one of Her Majesty's ships at sea and a person resident in England and Wales, where neither party is subject to immigration control. The Registrar General is advised that ships are regarded as being at sea at all times unless undergoing refit or docking, the length of which is likely to exceed 30 days. The party on board ship is required to give notice to the captain or other officer commanding the ship and that officer may issue a certificate which is valid for 3 months (see Example 2, M17). When this certificate has been issued, but not before, the party in England or Wales may give notice to the superintendent registrar in the usual manner.

25. The superintendent registrar's certificate will be valid for 12 months from the date the notice given in England or Wales was entered on < REDACTED >. The marriage must take place while both the Captain's certificate of no impediment and the superintendent registrar's certificate are valid.

26. When taking the notice the 'Notice in E&W when one party at sea' notice option should be selected from the drop down list on < REDACTED >. The place of residence for the party at sea should be shown in the 'Address line 1' field as 'HMS .....'(name of ship). There is no need to complete the nationality or period of residence fields for this party, so these fields are disabled.

27. On the 'Additional info' screen the 'One party at sea' option will be enable so that the date of the Captain's certificate of no impediment can be entered. Where the Captain's certificate has not been produced the notice can only be saved as unfinished on < REDACTED >. The notice can only be completed, and the 28 day waiting period commence, when the Captain's certificate of no impediment is produced and the relevant dates updated on < REDACTED >.

28. If a superintendent registrar receives an enquiry whether a marriage may take place in similar circumstances in a church or chapel of the Church of England or the Church in Wales, he should refer the applicant to the incumbent of the church or chapel where the couple wish to marry. The incumbent is authorised to accept a certificate of publication of banns issued by the chaplain or captain or other officer commanding the ship.

29. If the marriage is to take place at the residence of a housebound or detained person the procedure of giving notice on board ship must be followed in all cases including marriages according to the rites of the Church of England. Publication of banns on board ship is not permissible for such marriages. < REDACTED >. In these circumstances the housebound and detained declarations must be written on the reverse of the notice and completed and signed by the person giving the notice of marriage

30. Where one party is, or they both are subject to immigration control, both notices will have to be given to the superintendent registrar/deputy superintendent registrar of a specified registration district (also known as a designated register office) in England or Wales by the couple attending together. They will both have to have seven day's residence in a registration district in England or Wales.

31. In the event of short-term system failure, the notice should be taken manually on Form 48 or Form 48A as appropriate. The notice should be taken in accordance with the instructions for short-term system failure in M8, with the following amendments

- a. the place of residence should be entered as 'HMS .....';
- b. a line should be drawn through column 6 (period of residence);
- c. a line should be drawn through column 8 (Nationality and district of residence).
- d. declaration 2 in the notice given by the party resident in England or Wales should be amended to read:

**“..... I have for the period of seven days  
immediately before the giving of this notice had my usual  
place of residence within the district named in column 8  
above”**

## M12 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 lady contacts the register office to ask what she needs to do to marry in a civil ceremony in England. Further questioning establishes that both parties are British, that she has lived in a registration district in England for 3 years and her partner lives in Scotland. What advice should be given?
- Q2.** A gentleman contacts the register office to make arrangements to marry an Irish national at an approved venue in Wales. He is British and has been resident in England in the same registration district for 2 years and his partner resides in the Irish Republic. Due to work commitments she is unable to come to England until a week before the wedding and asks if she can do any of the preliminaries in the Irish Republic. Explain what advice should be given.
- Q3.** A lady attends to give notice of her intention to marry in a civil ceremony in this country in 6 months time. She is British and has been resident in the same registration district for 6 months. The person she wishes to marry has dual nationality - Australian/British and has been resident in New Zealand for the past 6 months. Explain if notice can be taken?
- Q4.** How should the heading of a notice of marriage be amended when taking a notice of marriage under the British Subjects Facilities Acts?
- Q5.** At what point can a notice of marriage be accepted from a person resident in this country between two British subjects marrying in a civil ceremony at the register office and the other party is an officer borne on the books of one of Her Majesty's ships at sea and intends to give notice of their intention to marry to the Captain?
- Q6.** A couple wish to give notice to marry in a Register Office in England. One party is resident in England and subject to immigration control. The other party is British and resident in Scotland. What advice would you give?