



ANGLICAN MARRIAGE IN THE ISLE OF MAN

A Guide to the Law for Clergy

Sodor and Man Diocesan Registry

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FOREWORD

to the first edition

by the Lord Bishop of Sodor and Man

There is more to marriage than the ceremony in church.

All of us, however, know the value of sound preparation, and I am aware of the devoted attention to this factor which is given by the clergy. There can be no doubt that, if we are to retain any semblance of Christian marriage, or instil any awareness of its sacramental nature, then firm teaching on the part of the Church and its clergy is essential.

I am grateful to Ken Gumbley and Peter Farrant for its compilation, and trust that it will be of use to the parish clergy as they perform their important task of preparing couples for their marriage in church.

✱ *Noël Sodor and Man*

Anglican Marriage in the Isle of Man: A Guide to the Law for Clergy

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1. Introduction

1.1 These guidance notes are issued by the Sodor and Man Diocesan Registry. They are based (with permission) on *Anglican Marriage in England and Wales: A Guide to the Law for Clergy* issued by the Archbishop of Canterbury's Faculty Office. For ease of comparison, the paragraph numbering of that publication is followed in these notes, and the principal differences between English and Manx law are noted. The guidance is not a complete statement of the law, but is believed to be correct as at 1st July 2008.

1.2 By virtue of its historically established position, the Church of England has a number of privileges and also a number of duties in relation to marriage in the Isle of Man. In these notes the expression "Anglican marriage" is used as a shortened form of "marriage according to the rites and ceremonies of the Church of England".

To place Anglican marriage in context, and so that the clergy may have a complete picture of the alternatives available, some reference is also made to secular and nonconformist marriage, but the coverage of this field is much less comprehensive.

1.3 On some occasions (for example where a divorced party is re-marrying) it may be appropriate for a civil (register office) marriage to be followed by a service of blessing in church. Such a service may be very different in content from the marriage service, or very similar; but in any event it is not legally a marriage, and does not require any formal preliminaries or registration. Such services fall within the field of liturgical law rather than marriage law; and accordingly they fall outside the scope of these notes. Clergy are however referred to the publication *Services of Prayer and Dedication after Civil Marriage* commended by the House of Bishops.

1.4 The greater part of these notes concentrates upon preliminaries to marriage, each type of preliminary being examined in turn. Clergy advising those who intend to marry should, however, direct their attention also at the outset to the intended place of marriage (see sections 3 to 5), possible impediments (sections 11 and 12), the question of who can conduct the marriage service (section 14), the availability of registers (section 16) and fees for the marriage itself (section 17).

1.5 The normal preliminary to Anglican marriage is the publication of banns (see section 7). (There is no equivalent in the Isle of Man to the superintendent registrar's certificate ("SRC") procedure.)

Banns are not appropriate when one of the parties lives outside the Isle of Man, or when there is urgency. Banns are also not suitable when there is a relationship of affinity between the parties, or when they wish to avoid local publicity. In all of these cases some form of licence is appropriate: a common licence should be obtained where possible. (See section 9). A licence is also recommended as the preferred preliminary to the marriage of a person who, although living in the Isle of Man, is a citizen of a country outside the European Community.

The main reason to seek a special licence as opposed to any other preliminary is a desire to marry in a parish where neither party lives or worships regularly, or in a building not normally authorised for marriages. Good cause must be shown. (See section 10).

Licences are not normally available, and banns must be used, if one party is divorced with a former spouse living, or if both parties are unbaptised.

2. The pastoral aspect

These notes are inevitably much concerned with law and formalities. However, clergy will be aware of the pastoral opportunities offered by "occasional offices" such as marriage. The residence requirements for marriage after banns or by licence ensure that there is the geographical scope for preparation, follow-up and pastoral care by the parties' local clergy and congregation. When a special licence is granted waiving residence requirements, care is taken to see that the parties own local clergy are at least aware of the marriage. Officiating clergy, local clergy and surrogates should all be mindful of the image of the Church that a couple receives when going through the preliminaries to marriage.

3. Buildings available for Anglican marriage

3.1 There is only a limited range of places where Anglican marriage (other than by special licence) may be solemnized. Anglican marriage may take place in a parish church (MA s.6), in a parish centre of worship (PM s.29), or in a chapel licensed for marriages by the bishop (MA s.14). These buildings are the only buildings to which marriage register books are issued.

Buildings which are not parish churches, whether consecrated or not, may be licensed by the bishop for public worship. Any building so licensed may then be further designated as a parish centre of worship (PCW), or licensed for the marriage of persons living in the parish in which the building is situated. The rules for the Cathedral Church of St German are the same as for other parish churches..

3.2 *(Omitted: no special provision for marriage in a military chapel is made by Manx law.)*

3.3 The Bishop of Sodor and Man may grant a special licence for Anglican marriage at any place in the Isle of Man (MA s.5(b)). This provision is very wide and could in theory cover buildings of other denominations, the open air, and territorial waters; however in practice it is the Bishop's usual policy only to permit marriage in buildings customarily used for Anglican worship. Some medical need must normally be shown for marriage in a private house to be authorised.

Even so, the Bishop will usually require to be satisfied of a real connection with the chapel chosen; in the case of an estate chapel in a private mansion, such a connection might exist in the case of the owner's family and resident staff; while in the case of a school chapel, a member of staff or resident student might satisfy the test but a former student might not.

3.4 *(Omitted.)*

3.5 The fact that a building may be covered by an agreement under the Sharing of Church Buildings Act 1969 does not, by itself, confer upon the building any status as a place of marriage. A shared building which is a parish church remains a parish church; a PCW or a building licensed by the bishop for marriages remains so authorised. A shared building which is not authorised for marriages may be subsequently designated a PCW or licensed by the bishop despite the sharing agreement.

The only difference which a sharing agreement makes is that it becomes possible for the building to be registered under MA s.29 even though it is not a separate building.

4. Factors governing the choice of location

4.1 Although a building may be available for Anglican marriage, it does not follow that

anybody can be married there. The basic rule is that for any marriage in a parish church or PCW, one of the parties must live in the parish (MA s.6). For any marriage in a building licensed by the bishop, one of the parties must live in the district specified in the licence (see 3.1 above). (The word "live" has been used loosely, because the exact nature of the residence qualification varies according to the type of preliminaries used see 5, 7.1, 8.2 and 9.2 below.)

The basic rule expressed above is subject to a number of qualifications and exceptions, as set out below.

4.2 A person who lives in one parish, but habitually worships in the church of another, may marry in the latter church provided his name is on the church electoral roll of the latter parish (MA s.18). Where the latter parish includes a district, or part of a district, assigned to a chapel with a separate electoral roll, he is qualified if his name is on the roll of the parish (excluding the district) or the roll of the district.

4.3 *(Omitted: there are no extra-parochial places in the Isle of Man.)*

4.4 A person who lives in a parish where there is a PCW but no parish church may, as stated above, marry in the PCW.

4.5 Where two or more parishes are within the area of a single united benefice, the bishop may give directions under which a person living in one parish may marry in the parish church of the other (PM Sch.3 para.14).

4.6 *(Omitted.)*

4.7 A person who lives in a parish where the normal place of Anglican marriage is closed for repairs or rebuilding may marry at a neighbouring parish church if the bishop so directs (MA s.14(3)). (See 16.2 as to the marriage registers to be used in this event.)

4.8 *(Omitted: no provision is made for military chapels.)*

5. The meaning of Residence

5.1 The qualification to marry in a particular place, and requirements as to the calling of banns, depend very much upon where a person lives. This is not always easy to determine. The wording of the statute depends on the type of preliminary being used:

"The parish in which one of [the parties] resides" (banns: MA s.6);

"the parish. . . in which one of the persons to be married has had his or her usual place of residence for fifteen days immediately before the grant of the licence" (common licence: MA s.12).

5.2 Two questions commonly arise in considering whether the statutory requirement of residence is satisfied: these concern (i) the person who claims an address as his "home" even though he is, in physical terms, living somewhere else; and (ii) the person who arrives in a parish expressly in order to marry there, and no is physically resident at the relevant date or dates but may have no intention to make a permanent base in the parish.

5.3 Common licence

So far as situation (i) is concerned, the words "usual place of residence" in the common licence test suggest that a generous approach should be taken to temporary absences; a person

may usually live in a place even though he is not physically living there at present. Students who live in college or hall during term time, people away on holiday or on an employment-related tour of duty abroad, may still be usually resident in a parish to which they intend to return. The person in situation (ii) would lose by this approach, since stress laid on the word "usual" might lead to the conclusion that although he was living in the parish in question, it was not usual for him to be there and his "usual" residence remained elsewhere.

Against this, however, there is the fifteen-day period; on one view this suggests that one must focus solely on this period and ask what was "usual" for the person during that time. This would operate against the person in situation (i), because during the 15 days it might be usual for him to be in college or on his ship. It would favour the person in situation (ii) because during the 15 days it would be "usual" for him to be in his bed-and-breakfast accommodation in the parish.

What is clear is that howsoever the test is to be expressed, it must be satisfied at the start of the fifteen days, and at the end, and throughout the intervening period.

It is also clear that on either view of the test, it is not satisfied by someone who is physically absent from the parish (i.e., not in situation (ii)) if that person, although having lived there some time previously, has established a permanent base elsewhere to such an extent that his return to the parish is more in the nature of a "visit" (e.g. to parents) rather than "going home". A member of the armed forces, a sailor, an oil rig worker or a diplomat, for example, may have nowhere else to go on leave than his parental home; he will still be "going home" when he goes there. So will a student who is turned out of his hall of residence during vacations. A room in the parental home regarded as "his room", containing his possessions and unoccupied in his absence, would support this view, though it would not be conclusive on its own.

A student who shares a house in the university town and lives there all the year round may, by contrast, be just a visitor when he goes to stay with his parents, in which case his usual residence is in the university town. The same reasoning applies a fortiori to people who have embarked upon a career away from the parental home or who have co-habited elsewhere for some time before having the marriage solemnized.

5.4 *(Omitted: no SRC procedure exists.)*

5.5 Banns

Uniquely, the residence requirement for banns does not have to be satisfied over a stated period, but simply at one instant in time (that is, the moment when the prescribed application for the calling of banns is given to the minister of the parish or to someone acting for him). The considerations mentioned above under "common licences" apply here in reverse: the absence of the word "usual" may suggest that actual physical residence is enough; but if this is wrong and "residence" has to have an element of permanence, looking at a status at one moment in time defeats any argument that such permanence need only last over a defined period.

5.6 Conclusion

Although it has been possible to give some clear guidelines in this section, the law on residence is clearly susceptible of more than one interpretation. The view of the Diocesan Registry is that the word "resides" for banns requires a physical presence and occupation of premises as a home. This need not be a permanent arrangement, but it must subsist at the relevant time. For common licences, the Registry view is that "usual place of residence" does not require a physical presence but there must throughout the 15 day period be a place within the parish which can properly be regarded as the home of the person in question. In the final analysis, clergy will

have to form their own conclusions on whether a genuine local residence has been shown, based on common sense and (in the case of common licences) directions and guidelines given by the Bishop and/or Vicar-General.

6. The duty to marry parishioners

6.1 In the Isle of Man every resident of a parish is entitled to marry in his or her parish church. (The right has been extended to those on the church electoral roll of a parish.) The incumbent or priest-in-charge has a duty to solemnize the marriage of his parishioners on request (or to provide an assistant curate to do so), and is guilty of neglect of duty if he refuses, for which disciplinary proceedings may be taken in the ecclesiastical courts.

6.2 An exception to this rule is made by the Judicature (Matrimonial Causes) Act 1965 s.14(2): where one of the parties is divorced and has a surviving former spouse, the incumbent has a free discretion to solemnize the marriage (or make his church available) or to decline. There are no other exceptions: for example, the fact that a party (or both parties) are unbaptised, or (as in England) that there is a relationship of affinity between them, does not deprive them of the right to marry after banns.

6.3 Where the general rule applies, the incumbent is still entitled to receive reasonable notice: in the case of banns there are specific requirements as to notice (see 7.4 below). The incumbent is entitled to appoint the date and time of the marriage, provided he acts reasonably (not insisting upon an unreasonable delay, or going outside the statutory hours which are from 7 a.m. to 6 p.m.) The incumbent also decides whether to offer the services of his organist, choir and bellringers. The form of the service (as between the Prayer Book and Common Worship) is a matter to be agreed between the incumbent and the parties, or for the Bishop's decision if they disagree. It will be seen from the foregoing that the incumbent has considerable leverage over parties who insist upon invoking their strict legal right to marry; consequently, arrangements for marriage are almost always made by mutual agreement rather than in reliance upon the letter of the law.

6.4 *(Omitted.)*

7. Banns

7.1 Where a marriage is to be solemnized after banns in the parish church, PCW or licensed building of the parish where one of the parties resides, banns must be published (i) in that church, and (ii) in the corresponding church of the parish where the other party resides (MA s.6) (See "The meaning of Residence", 5 above).

7.2 Where a marriage is to be solemnized in a "usual place of worship" (see 4.2 above), banns must be published (i) in that church, and (ii) and (iii) in the churches of the parishes or districts where each party resides. Where a marriage is to be solemnized in the church of a neighbouring parish because one of the parties lives in a parish where there is no church, or no church with regular Sunday services (see 4.3 and 4.6 above), or because one of the parties lives in a parish which has only a PCW (see 4.4 above), banns must be published (i) in the church where the marriage is to be solemnized and (ii) in the church of the parish where the other party resides.

Where a marriage is to be solemnized in another building because a church is undergoing repairs or reconstruction (see 4.7 above), banns must be published (i) in that building and (ii) in the church of the parish where the other party resides.

Where the bishop has given directions under PM Sch.3 para.14 (see 4.5 above), the banns for any marriage taking place by virtue of those directions must comply with them. They may

permit the banns to be published in one church and the marriage to take place in another.

7.3 A marriage may take place after banns in the Isle of Man if one of the parties lives in the United Kingdom or Channel Islands. Publication of banns takes place as usual in the place where the marriage is to be solemnized; but (subject to what is said below) the other party's banns may be published or proclaimed in any church of the parish or place in the United Kingdom or Channel Islands where he or she resides, according to the law or custom there prevailing (MA s.6(4)).

Banns may be called in England and Wales at a church of the Church of England or Church in Wales. In Northern Ireland and the Republic the prevailing custom is that banns may be published in parish churches of the Church of Ireland. In Scotland the Episcopal Church has never published banns; the law was until recently that banns were "proclaimed" as a preliminary to marriage in parish churches of the Church of Scotland. Since the passing of the Marriage (Scotland) Act 1977, Scots marriages now have civil preliminaries, and an Act of the General Assembly has discontinued the proclamation of banns "except where required for a religious purpose". The Diocesan Registry considers that satisfying the requirements of MA s.6 in the Isle of Man is not a purely "religious purpose", and accordingly banns cannot now be called in Scotland in such a way as to satisfy the section. It follows that where a party lives in Scotland, the recommended course is to marry by common licence.

7.4 Banns are to be published on three Sundays preceding the marriage (MA s.7). There is no requirement that these should be three successive Sundays.

Before publication, the incumbent is entitled to require seven days' written notice of the full names of the parties, their places of residence, and the length of time for which each one has resided at the place of residence stated (MA s.8). The incumbent does not have to insist on this notice.

On each Sunday chosen for publication, the banns may be published at any divine service (MA s.7).

7.5 If there are clergy officiating at divine service when banns are published, they must be published by a member of the clergy. If there are no clergy officiating, then provided the service is Morning or Evening Prayer and at the usual time when banns are published in that church, a lay person may publish the banns (MA s.9(2)(b)), this would normally be the Reader officiating at divine service.

7.6 The wording of banns is either in the form in the rubric to the BCP or in the Common Worship form (MA s.7(2)):

"I publish the banns of marriage between N of [the parish of] and N of [this parish]. If any of you know cause or just impediment why these two persons should not be joined together in Holy Matrimony, ye are to declare it. This is the [second] time of asking." or

"I publish the banns of marriage between N of [the parish of] and N of [this parish]. If any of you know any reason in law why these persons should not marry each other, you are to declare it now."

It will be noted that none of the forms requires the parties' current marital status to be inserted.

7.7 Banns are published for minors (persons under 18) in the same way as for adults, and

parental consent is not required when a minor applies to have banns published. The remedy of a parent who does not consent to a marriage is to object when banns are published.

7.8 The following persons are entitled to object to the marriage of a minor (unless the minor is a widow or widower) (MA s.3(1)):

- (a) Each parent or guardian having parental responsibility for the minor (except where (b), (c) or (d) below applies).
- (b) If there is a residence order (or custody order) in force, the parent with whom the minor is to live under the order.
- (c) If there is a care order in force, the authority in whose care the minor is.
- (d) If there is no care order in force, but a residence order was in force when the minor attained the age of 16, the person with whom he was to live under the order.

Under the Children and Young Persons Act 2001, where the parents are divorced or separated by court order they will both retain parental responsibility unless the court has specifically ordered that one of them should not have parental responsibility, and a parent with parental responsibility is entitled to object to the marriage of a minor child unless (i) a residence order provides for him to live with the other parent, or (ii) a care order is in force.

The natural father of an illegitimate child is not as such entitled to object to his child's marriage. He would be entitled to object if a residence order or order for parental responsibility had been made in his favour.

In order to object, the parent or guardian must openly and publicly cause his dissent from the intended marriage to be declared at the time of the publication of banns (MA s.3(7)). The publication of banns then becomes void: and having satisfied himself of the objector's standing, the incumbent should note the objection in the banns register and proceed no further on the minor's application. (It does not, however, prevent a fresh application by the minor to have banns called). Objections to banns should not be permitted to disrupt a service. Whether an objection appears to be well-founded or not, the person publishing banns should state that the objection is noted, and that the objector should see him/her after the service to give particulars of the objection; and should then proceed with the service (or with the calling of any other banns).

The dissent of a qualified person is the only ground which can render the publication of banns void. However, other allegations of legal impediments (that a party will be under 16 at the date of the marriage, that the parties are brother and sister, that a party is mentally incapable of giving consent to marriage, that the marriage will be bigamous, etc.) should be investigated before the marriage is due to take place if they are prima facie supported by evidence. Objections that do not amount to legal impediments (e.g. that a brother disapproves of his sister's marriage, or that an objector disapproves of remarriage after divorce) cannot be entertained. The clergy should seek advice from the Diocesan Registrar on any objection.

7.9 For each building in which banns may be published, the parochial church council is required to supply a register book of banns. These books are in a prescribed form, and are available from church bookshops. Before banns are published for the first time, the incumbent (or a member of the clergy nominated by the bishop) must cause the necessary details to be entered in the book, and the person publishing banns is to read from the book "and not from loose papers" (MA s.7(3)). After each publication the person publishing banns is to sign the book, or cause it to

be done under his direction (MA ss.7(3) & 9(3)).

7.10 If banns are published in one church for marriage in another, it will be necessary for a certificate to be issued that banns have been published in the former church in accordance with the Marriage Act. The officiant must see this certificate before the marriage goes ahead. Details for the certificate can be taken from the banns register and it must be signed by the incumbent of the church where the banns were published or by another member of the clergy nominated by the bishop (MA s.10).

7.11 It will be noted that the involvement of clergy is essential for the first and last stages in the banns procedure: a lay person may sometimes publish banns and sign the entry in the banns register; but a member of the clergy must always have authorised the entry in the register before first publication, and a member of the clergy must always sign the certificate of publication (if required).

7.12 Clergy have discretion in certain cases whether to marry parishioners, or to make the church available for that purpose (see 6.1 above); they have no such discretion about calling parishioners' banns or issuing certificates. A parishioner who gives the required notice and details, even if divorced, is entitled to have his banns called on the next three Sundays whatever the view of the incumbent; and failure to call banns on request is neglect of duty rendering a member of the clergy liable to disciplinary proceedings.

7.13 A marriage after banns must be solemnized within three calendar months from the last publication. After three months the publication of banns becomes void, and must be repeated from scratch if the marriage is to go ahead later (MA s.11).

7.14 The current Parochial Fees Order prescribes fees which are to be charged for the publication of banns and issue of a certificate. The fees should be paid when the parties apply for banns to be published.

8. Superintendent Registrar's Certificate ("SRC")

No provision is made in Manx law for Anglican marriage on a superintendent registrar's certificate, with or without a licence.

9. Common Licences

9.1 Marriage by common licence may take place on the basis of one party's qualifying residence, without any action being necessary where the other party lives, and it is quicker as a preliminary than banns. For these reasons it is often preferred, though it also has to be said it is more expensive than banns. The initial procedure for obtaining a licence appears at 9.7 below.

9.2 The normal qualifying residence is that one party has had his or her usual place of residence (see 5.4 above), for fifteen days immediately before applying for the licence, in the parish or district where the marriage is to take place (MA 5.12).

Alternatively a party may marry by licence in his or her usual place of worship (see 4.2 above) although not resident in the parish. Note the electoral roll requirement.

A party who has qualifying residence in a parish where the church is undergoing repairs or reconstruction (see 4.7 above) may be authorised by common licence to marry in the church of a neighbouring parish, if the Bishop so directs (MA s.14(3)). A common licence may also be issued for marriage in the church of a neighbouring parish where this is covered by the bishop's

directions under PM Sch.3 para.14 (see 4.5 above).

9.3 Although there are no legal controls to prevent "sham" marriages applying to Anglican marriages, corresponding to those affecting to civil and non-conformist marriages, clergy must be aware of the possibility that, where one of the parties is neither a British citizen nor a national of another European Economic Area (EEA) state, a couple applying for a common licence may be seeking to avoid immigration control. It is therefore recommended that applications in such cases should be made at the Diocesan Registry rather than to a surrogate (see 9.7 below), and that the applicant should produce evidence of the party's right to enter or remain in the Isle of Man. The Diocesan Registrar will take advice from the Isle of Man Immigration Office as to the immigration status of the party concerned, where appropriate.

Another matter to bear in mind is the possibility that a marriage will be a "limping" marriage. A marriage which takes place in the Isle of Man according to the law as set out in these notes will be held valid (as to form) by the courts of the Island, whatever the parties' nationality. But there is a risk it will not be valid under the law of the foreign country concerned. Problems with the recognition of marriage have arisen particularly in Muslim countries, and some Eastern European states which were formerly part of the Soviet Union. No difficulties have been experienced in the European Union, the old Commonwealth (Canada, Australia, New Zealand and South Africa) or the United States.

Therefore, if a foreigner marries in this country and his or her national law does not recognise the marriage, the couple could be in difficulties afterwards, particularly if they return to the country in question. In an extreme case they could be separated and unable to live in accordance with their marriage promises, or one party could be prejudiced in matters of financial provision or child custody by the other taking advantage of the foreign legal position. There have been cases where the marriage has been declared invalid, leaving wives and children abandoned in a foreign country. The Church recognises a responsibility to prevent, if possible, those whose marriages it solemnizes from falling into this situation.

Accordingly it is strongly recommended that even if marriage after banns is legally possible, Anglican marriage should be by common licence if either party is a national of a country outside the EU, the old Commonwealth or the United States. It is therefore recommended that applications in such cases should be made at the Diocesan Registry rather than to a surrogate (see 9.7 below), and that the applicant should obtain from the relevant embassy or consulate, and submit at the time of the application, a letter confirming that a marriage of one of its citizens, solemnized in church in the Isle of Man, will be recognised by the country in question. The Diocesan Registrar will consider the terms of any such letter, and advise the Bishop if a case arises for the Bishop's personal decision

9.4 Following recommendations of the House of Bishops, it is the policy of the Bishop that common licences are not granted for marriage where neither party is baptized. (Baptism sought purely in order to qualify for a church marriage, however, is not to be encouraged; in such cases the parties should have a genuine desire for baptism independent of the marriage plans, or marry after banns or with a civil ceremony.) Where one party alone is baptized, a written declaration by the other party that he/she (i) is not hostile to the Christian faith, (ii) understands and accepts the Christian understanding of marriage and (iii) wishes for a church marriage, is commonly accepted.

9.5 The age of the parties must be stated when applying for a common licence. If a party is under 18, written consent to that person's marriage is required (from the persons who could forbid banns - see 7.8 above).

The consent should be produced when the application is made, and the affidavit in support must state that it has been given (or that the annexed consent document is genuine) - MA s.13(2).

9.6 Common licences are essentially an exercise of the episcopal power of dispensation — the Bishop dispenses with the requirement of banns. The Bishop's powers of a judicial nature may be exercised by his Vicar-General (normally the Chancellor of the Diocese), and the Vicar-General in turn may delegate the hearing of licence applications to surrogates. Thus it happens that most applications are made to relatively local clergy who have been appointed "surrogates for marriages"; similar powers are delegated by the Bishop to the Diocesan Registrar on his appointment so that applications may be made to the registry if convenient (and, for example, in the circumstances mentioned in 9.3 above). Surrogates are appointed by letters patent under the Vicar-General's (or the Bishop's) hand and seal.

9.7 One of the couple seeking to marry by common licence should appear (by appointment) before the surrogate or at the registry, bringing any documentation required as in 9.3, 9.4 or 9.5 above or in 12 below. (Note that the residence or electoral roll requirement must be satisfied before the application is made, but the party who satisfies it need not be the one who makes the application.)

An application form is then completed, and the applicant is required to confirm on oath that the details are true and that no impediment is known (MA s.13(2)). If satisfied, the surrogate grants the licence. The officiating clergyman should insist upon seeing the sealed licence (or, in emergency, receiving verbal confirmation from him that a licence has been issued) before solemnizing the marriage.

9.8 It is possible for a person alleging some impediment to an intended marriage to hold up the grant of a common licence in a particular diocese by entering a caveat in the Diocesan Registry. The caveat need not be in a prescribed form, but must be in writing, signed by or on behalf of the caveator and must give the caveator's address and the grounds of objection to the marriage. If not withdrawn the caveat will prevent the issue of a licence unless and until the Bishop, Vicar-General or surrogate has certified that it "ought not to obstruct the grant of a licence" (MA s.13(2)). A caveat entered in the Sodor and Man Diocesan Registry will not prevent the grant of a licence in a diocese in England.

9.9 A marriage by common licence must be solemnized within three calendar months from the date when the licence is "granted" (i.e. the date of the affidavit; see 9.7 above). After three months a fresh licence application must be made if the marriage is to go ahead later (MA s.13(3)).

9.10 The Archbishops of Canterbury and York have no power to grant common licences for marriages in the Isle of Man (MA s.5(c)).

9.11 The fees for common licences are fixed by the current Parochial Fees Order (see 17.1 below).

10. Special Licences

10.1 The Bishop of Sodor and Man has the unique right to grant a special licence for marriage at any convenient time or place in the Isle of Man. This jurisdiction (expressly preserved by MA s.58(5)) is sparingly exercised and good cause must always be shown why a more normal preliminary to Anglican marriage cannot be used. Marriage with any other preliminary must be solemnized between 7 a.m. and 6 p.m. (MA s.4). Although a special licence could omit this requirement, that will only in practice be done in a case of serious illness: otherwise a condition,

similar to the requirements of s.4 will be written into the licence.

The more common need for a special licence is the parties' desire to marry in a building not normally authorised for Anglican marriage (as to which see 3.3 above), or in a parish where they cannot satisfy the residence requirement. Even in the last case good cause must be shown, normally in the form of a real connection with the parish or the church in question: the special licence procedure is not intended to enable parties to choose a church building on purely aesthetic grounds.

More detailed guidance on grounds which may be considered sufficient for the grant of a special licence may always be sought from the Diocesan Registry by letter or telephone. (The address and telephone number of the Registry are given inside the front cover of these notes.)

10.2 Persons wishing to marry by special licence should first approach the clergyman whom they wish to officiate at the marriage, and the persons who have control of the chosen building (the incumbent in the case of a parish church, the governing body in the case of a school or college chapel, etc). It is the responsibility of the officiating clergyman to ensure that the clergy of the parishes where the parties live (or worship) are aware of the intended marriage, and to ascertain whether they have any objection to the marriage being solemnized by the chosen officiant in the chosen location. The parties should also seek the goodwill of close relatives towards the marriage, even though there may be no minors involved.

The parties should then request an application form from the Diocesan Registry by letter, telephone or personal application. The application form for a special licence is in two parts: one part to be completed by the parties, and the other by the officiating clergyman. Supporting letters may be required for some parts of the form.

The final part of the application process is for an affidavit to be sworn at the Registry verifying the details given and the absence of any impediment.

10.3 The Bishop adopts the same policy over unbaptised applicants for special licences as over common licences (see 9.4 above). The Registry also takes precautions over the marriage of foreigners and minors similar to those described at 9.3 and 9.5 above.

10.4 The Diocesan Registry is open to telephone and personal callers between 10 a.m. and 4 p.m. Monday to Friday, except on certain days around Easter and Christmas. (Personal callers should make appointments first). Special arrangements may sometimes be made in a genuine emergency.

10.5 There is no statutory time limit for the solemnization of a marriage by special licence; it is, however, in practice made a condition of the licence itself that the marriage must be solemnized within three calendar months; in which case after three months a fresh licence application must be made if the marriage is to go ahead.

10.6 The fees for special licences are fixed by the current Parochial Fees Order (see 17.1 below).

10A. Deemster's Licence

To have a complete picture of the range of marriage preliminaries, it may be helpful to know that a Deemster can issue a licence for marriage in emergency which has some of the characteristics of the Bishop's special licence. However, a Deemster's Licence cannot be issued for Anglican marriages.

11. Recognition of divorce and nullity decrees

11.1 The Church of England follows the law of the land as regards capacity to marry. The fact that a clergyman may be free from any obligation to solemnize the marriage of a person whose marriage has been dissolved by a Court in the Isle of Man, the United Kingdom or the Channel Islands does not alter the fact that such a person is, in law, free to marry. The Church will recognise the validity of such second marriages and clergy are legally free to solemnize them, though they must have regard to the *Advice to the Clergy* issued by the House of Bishops in 2002.

Clergy should bear in mind that a marriage is only dissolved in the Isle of Man by a final divorce order (formerly called a "decree absolute of divorce"). They should always ask to see the decree, bearing the court seal (which takes the form of a rubber stamp), and ensure that it is not merely a provisional divorce order (formerly called a "decree nisi").

11.2 The Church will also recognise an annulment order or decree declaration of nullity made by a court in the Isle of Man, the United Kingdom or the Channel Islands; that is, a declaration that there is no valid marriage in existence. A clergyman has the same obligation to marry a parishioner whose marriage has been annulled as would exist if the parishioner had never gone through a form of marriage.

11.3 In addition the Church of England will recognise the divorce and nullity decrees of foreign courts if those decrees would be recognised by Manx courts. This is a complicated area of law, because recognition may depend upon the parties' domicile or habitual residence, connections with the place where the decree was pronounced, and the recognition laws of the country where the parties were domiciled at the time. If any question arises as to recognition of a foreign decree, the advice of the Diocesan Registrar should always be sought.

11.4 The Church of England does not recognise nullity decrees made by Roman Catholic marriage tribunals within the British Isles. A marriage which such a tribunal has purported to annul remains a valid legal marriage, and a bar to any further marriage, until it is annulled or dissolved by an Isle of Man, United Kingdom or Channel Islands court. (The same principle applies to the Republic of Ireland; a decree of nullity issued by the High Court in Dublin is required for recognition in the Isle of Man, not merely the decree of a Roman Catholic tribunal.)

11.5 (*Omitted.*)

12. Kindred and Affinity

12.1 The table of degrees of relationship within which marriage of relatives by blood (kindred) or marriage (affinity) is prohibited was, for many years, based on the Canons of 1603. The 1603 table is printed in older editions of the Book of Common Prayer. However, the older editions are no longer a reliable guide since Manx law and the Canons have both been amended. The amendment of the Canons has been more radical (following changes in English law), and certain marriages are prohibited by Manx law although not by the Canons.

12.2 Marriage between a person and any of the following relatives still remains totally prohibited in the Isle of Man:

- parent
- child
- adopted child or parent
- grandparent

grandchild
sibling
aunt or uncle
niece or nephew
former parent-in-law step-child
step-parent
child's former spouse
step-grandparent
grandparent-in-law
former spouse's grandchild
grandchild-in-law

12.3 *(Omitted.)*

12.4 It is not possible in the Isle of Man (unlike England) for an Anglican marriage to take place between a person and a step-child, step-parent, step-grandparent, former spouse's grandchild, former parent-in-law or child's former spouse.

12.6 *(Omitted.)*

13. The marriage service: time, rite and language

13.1 An Anglican marriage must take place between 7 a.m. and 6 p.m. (MA s.4) unless some other time is permitted by a special licence. (Such permission is normally only given in cases involving extreme medical necessity.)

13.2 Anglican marriage must follow the authorised rites of the Church of England. Where there is a choice between authorised services, the clergyman and the couple must agree on the service to be used, and if they cannot agree the bishop's ruling must be followed (Canon B3 para.4). But the choice of alternatives within the selected service (except where rubrics specifically state otherwise), and also the choice of hymns and music etc., are in the last resort for the clergyman - though he would naturally give great weight to the parties' wishes.

13.3 The marriage service is required to be celebrated in English according to the BCP or Common Worship rite, or in Manx according to the Manx Prayer Book rite, whatever the parties' nationality (MA s.15(b)). However, it is also required that the parties should understand the vows tendered to them, and it follows that where a party does not understand English (or Manx) the vows should be repeated in that party's language.

14. Ministers officiating at marriages

14.1 The requirement of the Marriage Act for Anglican marriage to be solemnized by a clerk in holy orders of the Church of England, Church in Wales or Church of Ireland (s.78) is satisfied by clergy of the Episcopal Church of Scotland by virtue of the Episcopal Church (Scotland) Act 1964. It is also satisfied by a person who is only in deacon's orders. Thanks to the Overseas and Other Clergy (Ministry and Ordination) Measure 1967 it is satisfied by an overseas clergyman who has permission to officiate from the Archbishop of York. However, as a matter of ecclesiastical discipline, other questions also (set out below) have to be considered before such a clergyman is invited or agrees to officiate.

14.2 *(Omitted.)*

14.3 The pronouncement of God's blessing upon the newly married couple, immediately after they have exchanged vows and been pronounced man and wife is held by some to be a specifically priestly function that cannot be performed by a deacon. Because this blessing is a mandatory part of the marriage liturgy, the argument has been raised that a deacon cannot canonically officiate at a marriage. However, the Bishop has stated that the normal officiant at a marriage should be a priest (or bishop), but that where the couple to be married so agree a deacon may officiate. Even so, because (as these notes make clear) marriage involves a member of complex legal requirements, and a newly-ordained person will take time to master these, the Bishops have indicated that deacons in the first year after ordination should not be asked to officiate at marriages.

It is intended by the Bishops of the Church of England that new guidelines should be issued permitting deacons to officiate at a marriage with the consent only of the incumbent or priest in charge, and making it clear that the blessing of the couple may be pronounced by a deacon. Minor legislative changes will be needed to give effect to this, and at the time of printing this guide, the law remains as stated above.

14.4 Where a marriage is proposed to be solemnized by a person from outside the regular clergy of the parish in question, the usual requirements for the exercise of ministry by visitors should be observed. Thus:

- (a) the incumbent, priest-in-charge or, during a vacancy, the sequestrators of the benefice must consent;
- (b) if the clerk chosen to officiate is in good standing and has not already officiated in the parish on more than the previous seven days, nor at any other time in the last three months, no special permission from the bishop is required; otherwise the bishop's consent is necessary;
- (c) if the clerk was ordained by a bishop outside the British Isles, the Archbishop of York must give permission for the exercise of ministry in the Isle of Man.
(Canon C8)

Attention is also drawn to the requirement that if a special licence is being sought, the officiating clergyman must ensure that the parties' parish clergy have no objection — see 10.2.

14.5 Canons B43 and B44, which govern the involvement of ministers (and lay members) of other denominations in Anglican services, permit such persons to assist at marriage in certain circumstances. But they give no authority for such persons to solemnize Anglican marriage.

If a minister of another denomination is to be involved, he or she may of course read prayers or lessons, and (for example) an additional blessing could be pronounced by a Roman Catholic priest if desired, provided that any addition was within the liturgical discretion given by Canon B5. But, as a minimum, the charge to the couple should be read and the vows be tendered by the Anglican minister, who should also pronounce them man and wife and pronounce (or invoke) the blessing of the couple.

14.6 The Marriage Act gives no authority for the captains of ships or aircraft to solemnize Anglican marriage.

15. Objections at the marriage service

15.1 Objections to banns are covered at paragraph 7.8 above. The dissent of a qualified person may render the publication of banns void and the proposed marriage unlawful. But although the marriage service itself contains a rather similar invitation to the congregation to declare impediments, the effect of any objection that may be voiced is quite different.

An objection at the marriage service cannot render ineffective a previously valid publication of banns. A parent who has failed to object to the banns for a minor child's proposed marriage cannot, by dissenting at the marriage service itself, make the marriage unlawful or take away the child's right to marry. Such dissent should therefore be handled with great care. It will normally be pastorally justifiable to adjourn into the vestry for the matter to be investigated and discussed between clergy, parents and couple; but if the couple finally decide to proceed the minister should follow their wishes.

15.2 As well as parental dissent, other legal impediments may be alleged. A clear prima facie case should be made if the minister is to delay the service, and where such a case is made (or if in any doubt) the minister should seek advice from the Diocesan Registrar as soon as possible. Under the Prayer Book rubric, the objector is obliged to give security for the costs that the parties may sustain (both in dealing with his allegation and on account of the delay in the marriage). He can either deposit the required sum forthwith, or undertake to pay it if his allegations are held to be unfounded or show no valid impediment. In the latter event sureties of known financial standing may be required to guarantee his undertaking. Obviously it is extremely difficult for the clergy to assess such costs, and undesirable for a lengthy financial discussion to take place in the service. The objector's willingness in principle to bear costs, coupled with a prima facie case, should be enough to warrant a reference to the diocesan registrar.

15.3 Objections not covered by the above should not be allowed to delay the service. The minister should indicate politely that the objection is noted, but that he intends to proceed. Afterwards the facts may be reported to the Registrar or the Bishop if it seems appropriate. If the minister has indicated that he intends to proceed but the objector seems set to prevent him doing so, the objector should be dealt with in the same way as any other disturber of public worship.

16. Registration

16.1 Following an Anglican marriage, it is the duty of the officiating minister to register the marriage immediately in duplicate books supplied for the purpose. The Chief Registrar is responsible for supplying register books to the minister in charge of every church or chapel authorised for marriages (see 3.1 above) (MA ss.40-42).

16.2 Where a marriage takes place in a building which has its own register books, the books of that building are to be used.

Where a marriage takes place in a building which has no register books (which may well be the case if the marriage is by special licence), the Act does not prescribe which books are to be used. The normal (and preferred) arrangement is for the books of the parish church to be made available by prior arrangement with the incumbent; but there is no obligation for the incumbent to make the books available when required, and correspondingly no obligation for the officiating minister to use those books. Any register books which can be obtained may be used.

16.3 Entries in marriage register books must contain all the details required by the printed form; the couple are required to provide these details on request. An entry must be signed by the couple, the officiating minister and two witnesses (MA s.42(2)). The words used as to the method

of marriage should be "after banns", "by common licence" or "by special licence", as the case may be; not merely "by licence" or "by ecclesiastical licence".

16.4 An entry is not complete until signed by the minister; any error discovered before the minister signs may be corrected forthwith, so that the error and the correction are both legible. Corrections to entries after the minister has signed may be made (by a note in the margin of the register, without obliterating the original entry) within one month of the entry in question. The minister who made the entry must make and date the correction (in both register books) in the presence of the married couple, and all three must sign it. If the couple cannot attend when the correction is made, it must be made before the Chief Registrar and 2 witnesses (MA s.46).

16.5 The minister in charge of each church or chapel with its own register books is required to keep the books in safe custody and to deliver a quarterly return of entries to the Chief Registrar; and whenever a book is full, one of the duplicate copies is to be delivered to the Chief Registrar and the other kept in the church (MA s.45).

16.6 So long as a minister has custody of a register book (original or duplicate), he is required to permit searches in the book at reasonable times, and to give a signed certificate of any entry (MA s.48). Fees for searches and certificates are prescribed by order of the Treasury from time to time.

16.7 (*Omitted.*)

17. Fees for Marriage

17.1 Where Anglican marriage takes place in a parish church (or PCW) fees are payable in accordance with the current Parochial Fees Order made by the Diocesan Board of Finance under the Ecclesiastical Fees Measure 1986. These fees are divided, according to a table set out in the Order, between the incumbent (or the Diocesan Board of Finance during a vacancy) and the parochial church council. (The incumbent's share is taken into account in calculating the diocesan augmentation of his stipend.)

Where Anglican marriage takes place in a building licensed under MA s.14, the level of fees should be that prescribed by the Parochial Fees Order, but the bishop's licence for the building will reserve the fees to the incumbent.

17.2 Where Anglican marriage takes place by special licence, either in some place other than a parish church, PCW or licensed building, fees are only payable if the custom of that place so dictates and custom is followed as to the person to receive the fee. But if an incumbent is making register books available for such a marriage, courtesy normally requires that any fees charged are made over to him and his parochial church council.