Where either of the parties is a foreign national it is strongly recommended that Anglican marriage should be by common licence, especially if either party is a national of a country outside the European Union. This is both for the protection of the couples concerned, and for the protection of officiating clergy. In such cases it is desirable that the party making application for a licence should produce a document from the appropriate embassy or consulate certifying that there has been compliance with all the preliminary formalities necessary to enable that party to marry in England, and that the marriage will be accepted as a valid marriage in the country of origin of the foreign national.

Home Office Regulations issued in 2005 have restricted access to marriage for those who are not British citizens. The Regulations prevent non-citizens from marrying in a Registry Office or non-Anglican church or religious building unless they have obtained a supplementary marriage visa or licence. The licence may take 13 weeks to obtain, if it is granted at all.

This restriction has resulted in a dramatic fall in the number of marriages taking place in Registry Offices between non-British citizens, ‘over-stayers’, asylum seekers, and others whose immigration status in this country is unclear.

However, the restriction does not apply to Church of England marriages. Consequently there has been a dramatic increase in the number of couples who are now approaching clergy to be married in Church of England churches, and who might have found it difficult to be married in a Registry Office because of the Home Office Regulations. This note is intended to give guidance to clergy who receive applications from such couples.

As a matter of law, clergy of the Church of England are bound to marry parishioners, and others on their church’s electoral roll or those with a qualifying connection under the Marriage Measure 2008, unless they believe that the marriage may be invalid for some reason, or if they conscientiously object to marrying the couple because one or both partners may be divorced with a previous partner still living. For many years, the policy has been that non-British citizens, and those who come from outside the EU should be married by ‘Common Licence’ rather than by banns. Before a Common Licence would be granted, applicants would be asked to produce a letter from their embassy confirming that they were not already married and consequently were free to marry in this country, and that a marriage according to the rites and ceremonies of the Church of England would be recognised as valid in their country of origin.
Although the Home Office Regulations do not directly affect the Church of England practice, I continue to advise clergy that in cases where immigration status is uncertain, a Common Licence should be obtained, rather than authorising the marriage by reading banns. This is because a Common Licence can be obtained only after sworn statements have been made by the applicants, and such statements carry the sanction of proceedings for perjury.

**All cases such as this are to be dealt with by the Diocesan Registry, and not by the surrogates.** In some case, the Registrar may direct that the applicants should apply for a Superintendent Registrar’s Certificate. **Common Licences in cases such as this will only be issued on production of passports, visas, or other identifying documents issued by the Home Office or the UK Border Agency, and a letter from the relevant embassy.**

In certain cases, clergy may wish, notwithstanding this guidance, to marry after reading banns in the usual way. If so, my strong advice to clergy (for their own protection in the event of subsequent investigation by the police or immigration authorities) is that they should insist on seeing valid identification material, referred to above, and a letter from the relevant embassy, confirming (1) that the individual is not already married and (2) that a marriage solemnised in the Church of England would be regarded as valid in their country of origin. Only if the non-citizen can produce a valid ‘marriage visa’ should clergy waive this requirement.

Serious consequences may ensue both as a matter of civil law and of clergy discipline if clergy participate in marriages which turn out to be invalid through bigamy, lack of proper consent, or other reasons.

In case of doubt, please telephone Canon John Rees (01865 297214) or Sara Leader (01865 297211).