

CHURCH OF ENGLAND MARRIAGE MEASURE 2008

GUIDANCE FROM THE HOUSE OF BISHOPS

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PART I: THE MEASURE AND THIS GUIDANCE

A THE MEASURE AND WHAT IT DOES

- 1 The Church of England Marriage Measure 2008 (“the Measure”) extends the **existing legal right to be married in a parish**, using a Church of England marriage service, to cases where one or both of the couple can **establish a Qualifying Connection with the parish**. The Qualifying Connection may be of any one of the seven types specified in the Measure. The Measure came fully into force on 1st October 2008.

B EXISTING RIGHTS

- 2 The Measure does **not** affect the **existing rights of parishioners**. A couple continue to have **the right to be married in the parish church of a parish where one or both of them are resident or entered on the church electoral roll**.

C WHAT THE MEASURE DOES NOT DO

- 3 In addition to leaving existing rights unaffected (see para 2), the Measure does **not** affect:
 - the existing position regarding the **remarriage of a divorced person** whose former husband or wife is still alive. (This aspect is dealt with more fully in paras 85-87); or
 - the procedure for issuing an **Archbishop of Canterbury’s special licence** or the principles on which such a licence is granted. In cases which are not covered by the existing rights of parishioners referred to above or by the Measure, it may still be possible to obtain a Special Licence.

Further information about the issue of special licences is available from the Faculty Office of the Archbishop of Canterbury and on its website at www.facultyoffice.org.uk.

4 The Measure does **not** grant the couple any greater rights than a parishioner would have. The couple do not have the right:

- to insist on being married on a particular date or at a particular time. The date and time have to be agreed with the minister of the church, subject to the normal rules in the Marriage Act 1949 (i.e. the marriage must be solemnised within 3 months after the publication of the banns has been completed and between 8 am and 6 pm); or
- a right to the services of an organist, a choir, bell-ringers etc – again, this is a matter for agreement.

D TERMS USED IN THIS GUIDANCE

5 There are a few words or expressions to which the Measure or this guidance gives a specific meaning – for example “Qualifying Connection”, “the Minister”, “Parent” or “Grandparent”. To assist those using this Guidance, these terms are shown with an initial capital letter, and the Glossary in Appendix 3 lists them and gives their meaning or refers to the paragraph where it is set out.

E THE QUALIFYING CONNECTIONS

6 **A person has a Qualifying Connection with a parish if:**

- that person:
 - was baptised in the parish. (This does not apply where the baptism formed part of a combined service of baptism or confirmation); or
 - had his or her confirmation entered in a church register book of a church or chapel in the parish; or
 - has at any time had his or her usual place of residence in the parish for at least 6 months; or
 - has at any time habitually attended public worship in the parish for at least 6 months;

or

- a Parent of that person has at any time during that person’s lifetime:
 - had his or her usual place of residence in the parish for at least 6 months; or
 - habitually attended public worship in the parish for at least 6 months;

or

- a Parent or Grandparent of that person was married in the parish.

In this guidance, a person seeking to establish a Qualifying Connection with a parish and to marry under the Measure on that basis is described as the “**Applicant**”.

The references to baptism, confirmation and marriage, and to attending public worship, are all confined to **services according to the rites of the Church of England**. The effect of this in practice is explained in para 63 and in paras 39 (relating to baptism) and 44 (relating to marriage).

The detailed provisions about who qualifies as a **“Parent” or “Grandparent”** for this purpose are explained in para 45.

F WHERE THE MARRIAGE CAN TAKE PLACE

7 The Measure applies to a marriage in:

- a **parish church**;
- a **parish centre of worship**. This is treated by the Measure as equivalent to a parish church; or
- a public chapel which the bishop has **licensed for marriages** and the calling of banns for those who live within the geographical area specified in the licence. A person who has a Qualifying Connection with a parish which lies wholly or partly within that geographical area has the right to be married in the licensed chapel if he or she wishes.

8 The Measure does **not** apply to a marriage in:

- a **cathedral**, even if it is also a parish church. (Existing rights to marry in a cathedral – e.g. the right of a parishioner to marry in a cathedral which is also a parish church - are not affected); or
- any **place other than those listed in para 7** e.g. a school or college chapel.

Where a couple wish to marry in any of these places, they must still apply for a Special Licence.

9 The Measure does **not** apply to marriages in:

- the **Church in Wales**; or
- the **Isle of Man or the Channel Islands** (although the Measure or similar provisions could be extended to them later).

Special rules will also apply in relation to the **Diocese in Europe**.

G PRELIMINARIES TO THE MARRIAGE

10 A marriage under the Measure will normally take place following **publication of banns**. The banns must be published:

- **where the marriage is to take place:**

- The notice requesting the calling of banns there must be given to the Minister of the parish; and
- The normal wording should be used for the banns, except that at the point where the banns refer to the person with the Qualifying Connection, the words “N ... of this parish” should be changed to “N ... of the parish of X who wishes to be married in this church by virtue of his/her connection with this parish”;

and

- **in the parish or parishes where each of the couple are resident**

- The normal wording should be used for the banns here; and
- A certificate of due publication of banns in each parish must be produced to the member of the clergy who is to solemnise the marriage.

The banns should **not** be published in any other parish e.g. a parish where one or both of the couple are not resident but have their names on the church electoral roll.

- 11 It is also possible to apply for a **common licence** for a couple to be married in a church or chapel where one of them could be married by banns under the Measure. (For further information about the common licence procedure under the Measure see paras 81-84.)
- 12 It is **not** possible to use the Measure for a marriage by **Superintendent Registrar’s Certificate**.

H ESTABLISHING A QUALIFYING CONNECTION

- 13 The Applicant is responsible for establishing that he or she has the necessary Qualifying Connection. Thus the Applicant must **provide such information, written or otherwise, as the person with statutory responsibility for deciding the matter requires in order to satisfy him- or herself of the connection.**
- 14 In the case of a **marriage after publication of banns**:
 - the **Minister** of the parish has the statutory responsibility for deciding whether the Applicant has a Qualifying Connection with the parish concerned. The Minister must satisfy him- or herself of this before allowing the marriage to take place; and
 - if the Minister considers it is necessary in order to satisfy him- or herself that the Applicant has a Qualifying Connection, the Minister may require some or all of the information to be given in the form of a **statutory declaration**. However, a Minister should not ask for a statutory declaration as a matter of course, but only in the types of case explained in paras 75-78 and in line with the guidance set out in those paragraphs.

15 For a **marriage by common licence**:

- the **person with authority to issue the licence** – normally a surrogate or the diocesan registrar - has the statutory responsibility for satisfying him- or herself that the Applicant has a Qualifying Connection with the parish concerned before issuing the licence; and
- there is no power to call for a statutory declaration. As in other cases where a person applies for a common licence, it is necessary to swear an affidavit in support of the application. For further information on the procedure in these cases see paras 81-84.

I THE PURPOSE OF THIS GUIDANCE

16 Part II of this document contains **guidance for Ministers** and those who have **authority to issue common licences on how they are to discharge the statutory responsibility** referred to in paras 13 and 15 above. The Measure:

- requires the **House of Bishops to issue guidance** on this; and
- requires the Minister or the person with authority to issue a common licence **to have regard to the guidance.**

17 The great majority of the cases under the Measure are likely to be straightforward. However, Part II of this document also contains practical guidance for Ministers and those who issue common licences about how to deal with any less straightforward cases.

18 The guidance should also help couples who wish to rely on the Measure by providing information about how they can expect it to be applied in practice.

19 The House of Bishops is not required by the Measure to provide guidance on other aspects of the Measure. However, it has identified a few **other specific matters** which may arise in cases under the Measure and on which **the House has decided that it could helpfully give some guidance for clergy. That guidance is set out in Part III of this document.**

PART II GUIDANCE ON ESTABLISHING A QUALIFYING CONNECTION

A. GENERAL GUIDANCE

The Minister and his or her role

- 20 The **Minister** of the parish has a **statutory responsibility** for deciding whether the information is sufficient to satisfy him or her that there is a Qualifying Connection and whether to ask for a statutory declaration. In carrying out that responsibility, he or she must have regard to the guidance in this page and pages 7 to 20.
- 21 It is important for the Minister to bear in mind that the Measure was passed **because the Church wishes to support and encourage marriage, and to provide a welcoming ministry to couples who wish to be married in Church.**
- 22 It follows that the Minister should discharge his or her statutory responsibility within the overall context of providing a genuine welcome to all couples who approach the Church for marriage, whether or not one of them proves to be able to establish a Qualifying Connection. If neither of the couple is able to do so, the Minister should discuss possible alternative ways of being married in the parish with them (see para 33). If, in the event, it is not possible for the couple to marry in the parish, the Minister should be ready to explore with them where the marriage could take place and, if they wish, to contact the Minister of another parish where the couple could be married to introduce them to him or her.
- 23 In the majority of cases the incumbent or priest in charge will be “the Minister” for the purposes of the Measure. However, the Measure contains detailed rules identifying who will have the statutory responsibility in any given case. Under them, **the “Minister”** means:
- (i) a priest to whom a special cure of souls has been assigned for an area which includes the church or chapel where the marriage is to take place;
 - (ii) if there is no-one in category (i), the incumbent of the benefice including that church or chapel;
 - (iii) if there is no-one in categories (i) and (ii), the priest in charge of the benefice;
 - (iv) if there is no-one in categories (i) to (iii), and if there is a team ministry for the benefice, the team vicar who has been appointed as “acting team rector”, if there is one, or if not, the team vicar who has held office for longest in the team ministry; or
 - (v) if there is no-one in categories (i) to (iv), the rural or area dean.

Initial steps

- 24 The Minister should encourage the Applicant to **complete the recommended form in Appendix I of this document.** The form will prompt both the Applicant and the Minister as to the type of information needed and will help to ensure that the information is presented to the Minister in an ordered and convenient form.

- 25 **The Minister should normally arrange to meet the couple, or at least the Applicant, in person** and discuss the position before and/or after her or he completes the form. This will enable the Minister to:
- welcome the couple and give any necessary guidance on completing the form and on the information the Applicant will need to provide;
 - discover at the outset whether the case clearly does not fall within the Measure. If so, the Minister should discuss the possible alternatives with the couple i.e. that:
 - at least one of the couple could worship habitually in the parish for at least 6 months and then apply for entry on the church electoral roll; or
 - In some cases, that it may be possible to make a successful application for an Archbishop of Canterbury’s special licence (see para 3);
 - discover at the outset if the case is obviously not straightforward, so that the Minister will need to obtain further guidance before deciding on the application. The Minister should explain the position to the couple and, if appropriate, discuss possible alternatives (as above);
 - discuss arrangements for marriage preparation (see para 88), as well as encouraging the couple to join the parish in worship and be welcomed by the parishioners; and
 - discover whether there are any further issues (e.g. marriage after divorce - see paras 85-87) which need to be considered at an early stage.
- 26 Because of the need to make the recommended form in Appendix 1 straightforward and user-friendly, it cannot cover every eventuality. This means that even after the form has been completed and submitted to the Minister in an individual case the Minister may find that he or she needs to ask for further information.
- 27 In these cases the Minister should be ready to discuss what is needed with the Applicant. In addition:
- If it is necessary to find an entry in a register which is still in the parish, and the Applicant finds it difficult to come to the parish in person to check the register but can give a reasonably clear idea of the date – say within two or three years – the Minister should be willing to look through the register or arrange for someone else to do so in order to find the entry; and
 - If the necessary entry is in a register which is no longer in the parish, the Minister should be ready to give whatever information he or she has can about where and how to consult it.

Cases which are not straightforward and how they should be dealt with

- 28 Possible factors which may mean that a case is not straightforward include the following:

- questions about the identity of the Applicant or some other person
- questions about the reliability of the information which the Applicant has provided
- the fact that the case involves a conventional district or what appears to be a non-parochial place;
- issues about the effect of pastoral re-organisation/changes in parish boundaries
- problems in identifying or finding the relevant register or the relevant entry in a register
- questions as to whether the requirements regarding a “usual place of residence” or “habitual attendance at public worship” in the parish have been satisfied
- questions as to whether an individual was the Applicant’s Parent / Grandparent as defined in the Measure;
- a party who is a foreign national (see paras 90-92); or
- questions as to whether the normal requirements for a marriage by banns are satisfied.

29 Where the Minister finds that a case is not straightforward, he or she should:

- consult the diocesan registrar and obtain his or her advice; and
- explain to the couple that in the circumstances the Minister needs further advice about how to proceed, and will come back to them once he or she has received that advice.

30 When the diocesan registrar has considered the case, the main types of advice which he or she may give to the Minister are that:

- the Minister can agree to the marriage taking place; or
- more information is needed, and what that is; or
- the Minister should require the Applicant to make a statutory declaration, and what information it should cover; or
- the Minister should advise the couple that, in the circumstances, rather than pursuing the application to marry following publication of banns, they would be better advised to apply for a common licence (so that the application can be referred to an experienced surrogate or the diocesan registrar), or to apply for a Special Licence; or
- the application to be married under the Measure, following publication of banns, should be rejected, and on what grounds.

31 The Minister should follow the Registrar’s advice and inform the couple accordingly.

Rejecting an application

- 32 The Minister should not decide to reject an application without obtaining advice from the diocesan registrar unless it is clear beyond doubt that none of the Qualifying Connections exists
- 33 If the Minister rejects the application, it may still be possible for the couple to marry in the parish:
- at least one of the couple could worship habitually in the parish for at least 6 months and then apply for entry on the church electoral roll;
 - in some cases, it may be possible to obtain a special licence; and
 - there are some special cases where the couple could be married in the parish by common licence under the Measure even though marriage by banns there is not possible (e.g. a case where one of the couple is temporarily resident abroad) (see para 81).
- 34 Where the Minister has to reject an application it is good practice for him or her:
- to write to the couple, to explaining why this is the case, to emphasise that it is because of the legal rules governing the places where a marriage may lawfully be solemnised in the Church of England, and setting out the possible alternative(s);
- or
- if practicable, to see the couple personally to explain the grounds for refusal and discuss the alternative(s);
- and, in either case
- to make it clear to the couple, so far as possible, that the Church is still extending a welcome to them and that a church wedding in a parish where the law permits it to take place it is still very much open to them (see para 22). (If there are separate issues regarding marriage after divorce, the Minister will need to take these into account in deciding what to say or write.)

The information which the Applicant needs to provide and how it should be recorded

- 35 The **responsibility for proving the connection lies with the Applicant**. The test is always **whether the Minister is satisfied** that the qualifying connection is established.
- 36 The information can be provided in various ways; the main categories into which they fall are as follows:
- **The Minister may have personal knowledge of the facts** e.g. he or she may know that the Applicant's parents have their usual place of residence in the parish, and have done so for at least 6 months, or that the Applicant habitually attended public worship in the parish in the past for a period of at least 6 months.

Here, the Minister should simply record the facts briefly in writing by noting them on the form submitted by the Applicant;

or

- **The Minister may be informed of the facts by another person at present holding office or serving in the parish**, e.g. a curate, a churchwarden, the director of music etc.

If the Minister receives satisfactory oral information from any of these sources, he or she need not require the person giving it to set it out in writing – the Minister can simply record the facts briefly by noting them on the form submitted by the Applicant;

or

- The Applicant may rely on **information from some other person**.

In this case, the Minister should ask the Applicant to arrange for it to be provided in writing and signed by the person giving it;

or

- The information may consist of an **entry in a register** kept in the parish, **which the Minister has seen personally**.

In this case, the Minister should note the date of the register entry, what is recorded in it, and that fact that he or she has seen it, on the form submitted by the Applicant;

or

- The information may consist of an **entry in a register** which is not kept in the parish, and **which the Minister has therefore not seen personally**.

In this case, the Minister should ask the Applicant to supply a copy of the entry which has been certified as correct by or on behalf of the person who has custody of it – such a copy is referred to in this document as a “Certified Copy” - or other written confirmation from or on behalf of that person of the date and contents of the entry. The Minister should make a note on the form which the Applicant has submitted of the date of the register entry, what is recorded in it and the fact that a Certified Copy or other information from or on behalf of the person with custody of the register has been produced;

or

- the Applicant may supply information in the form of **other documents** - e.g. documents showing residence of the type described in para 52 below.

Here, the Minister should see and check the documents and make a brief note on the form submitted by the Applicant recording what documents he or she has seen, what facts they establish and the fact that he or she has seen them.

For how long documents should be retained

- 37 The Minister should retain **the completed form submitted by the Applicant and any other documents held** under the previous paragraph **until after the marriage has taken place** and treat them in the same way as other confidential documents.
- 38 With one exception, the form and any other information which has been supplied **need not be retained** after the marriage. The exception is that if the Minister has asked for and obtained a **statutory declaration** this should be retained even after the marriage. Again, the Minister should treat it in the same way as other confidential documents.

B. ESTABLISHING SPECIFIC TYPES OF QUALIFYING CONNECTION

Note: In each case, see para 28-32 for non-straightforward cases

BAPTISM

What the Measure requires

- 39 The Applicant must have been **baptised in the parish**:
- This does not include cases where baptism was part of a **combined rite with confirmation** – there, the confirmation is the relevant factor under the Measure;
 - Subject to that, the Measure applies at **whatever age** the person was baptised;
 - The baptism **need not have been in the parish church or by a member of the clergy serving in the parish** (e.g. the Measure would cover baptism in a college chapel, or emergency baptism, possibly by a lay person, at home or in hospital); and
 - The baptism must have been **according to the rites of the Church of England**. However, the **Minister can assume that this requirement is satisfied** if e.g.
 - the baptism took place in a Church of England church or place of worship; or
 - it took place in the context of an LEP approved by the Bishop; or
 - the service was a Church of England service in a shared church building; or
 - the baptism was carried out in an emergency in a place other than in a place of worship, and was carried out by a member of the clergy of the Church of England or by some other member of the Church of England .

If the case does not fall within any of those categories, or the Minister is in doubt, he or she should consult the diocesan registrar.

Information to be supplied

- 40 In a straightforward case the information supplied should be one or other of the following:
- an entry in a baptismal register which the Minister sees personally; or
 - a Certified Copy of an entry in a baptismal register, other written confirmation from or on behalf of the person with custody of the register of the date and contents of the entry, or a certificate of baptism (either the full form or the short form)

If the Applicant has made all reasonable efforts to find the relevant register and the relevant entry in it, but without success, the Applicant may be able to produce other

satisfactory information regarding the baptism, but the Minister should consult the diocesan registrar before accepting such information.

CONFIRMATION

What the Measure requires

- 41 The Applicant's **confirmation must have been entered in the register book of confirmations for a church or chapel in the parish.** (This will have been done on the basis that the Applicant was prepared for confirmation by a member of the clergy serving in the parish.) The fact that the confirmation was registered in a particular church register is an essential part of the Qualifying Connection – it is not sufficient to show that the confirmation took place.

Information to be supplied

- 42 The Minister needs **to be satisfied regarding the entry in the relevant register** – either by seeing the entry in the register personally or by receiving a Certified Copy of the entry or other written confirmation by or on behalf of the person with custody of the register, identifying the church or chapel to which the register belongs.

MARRIAGE OF PARENT OR GRANDPARENT

What the Measure requires

- 43 A **Parent or Grandparent of the Applicant** must have **married in the parish.**

Thus there are two separate issues here:

- was the ceremony a “marriage” within the terms of the Measure: and
- was one of the persons who was married a “Parent” or “Grandparent” of the Applicant as defined in the Measure?

- 44 So far as the **marriage** itself is concerned:

- it must have been according to the rites of the Church of England - the Measure does not apply if marriage was a purely civil one or according to non-Anglican religious rites. It will be clear from the marriage register whether this requirement was satisfied; but
- The marriage need not have been by banns and need not have taken place in the parish church (e.g. it could have been by special licence in a school or college chapel).

- 45 As regards the terms “**Parent**” and “**Grandparent**” in the Measure:

- a **Parent** means:

- a parent of either a legitimate or an illegitimate child; or
 - an adoptive parent. This requires legal adoption; or
 - a person "who has undertaken the care and upbringing" of another person. This points to a potentially long-term relationship.
- For a **Grandparent** one of the above three types of relationship must apply between each generation and the next, i.e. between grandparent and parent; and between the parent and the Applicant.

Information to be supplied

46 The **information regarding the marriage** should normally be either:

- the entry in a marriage register which the Minister sees personally; or
- a marriage certificate/Certified Copy of an entry in the register or written details of the entry from or on behalf of the person with custody of the register.

The Minister should consult the diocesan registrar before accepting any other form of information to show that the marriage took place.

47 The fact that a party to the marriage was the **Applicant's Parent or Grandparent** can be established by one of the following :

- personal knowledge by the Minister; or
- personal knowledge by another person holding office or serving in the parish, or someone who has done so in the past, who supplies the information about the relationship to the Minister. (In the case of a person who held office or served in the parish in the past, the information should be in writing and signed by the person supplying it); or
- for the ordinary parent-child relationship, the child's birth certificate or an entry regarding the child's baptism in a register of baptisms - in the case of a Grandparent , the birth certificate or entry regarding the baptism of the Applicant's Parent; or
- for adoption, a certificate of adoption (replacing the original birth certificate); or
- for cases where one person has undertaken the care and upbringing of another, and where no-one in the first two categories above can provide the information, signed written information from some other person who has personal knowledge of the facts. In these cases:
 - if possible, the information should come from an independent person such as a professional person who is aware of the facts by virtue of a professional relationship with the family or the individuals concerned (e.g. a solicitor, doctor, or teacher); but
 - if the only information available is a statement from the person who it is claimed is a Parent/Grandparent or some other close relative, it is

recommended that the Minister also requires a statutory declaration from the Applicant confirming that the information is correct.

If any other type of information is offered, or if the Minister is in doubt, he or she should consult the diocesan registrar.

<p style="text-align: center;">USUAL PLACE OF RESIDENCE IN THE PARISH FOR AT LEAST 6 MONTHS</p>
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What the Measure requires

48 In order to satisfy this Qualifying Connection, it is necessary to show that:

- the **Applicant** has at any time had **his or her usual place of residence in the parish for at least 6 months**; or
- a **Parent of the Applicant** has at **any time during the Applicant’s lifetime had his or her usual place of residence in the parish for at least 6 months**.

49 Thus there are **three elements in the requirement under the Measure**:

- The residence qualification – the person concerned must have had his or her **“usual place of residence”** in the parish.
 - This normally means that the person concerned has his or her “home base” in the parish, even if he or she has been temporarily absent for part of the time e.g. on holiday or for work;
 - It would not include e.g. staying temporarily in a hotel or guest house etc in the parish, when the person concerned had his or her home base elsewhere.
- The **person** who has or had his or her usual place of residence in the parish must be the **Applicant** or a **Parent** of the Applicant.
 - “Parent” means the same as in para 45 above
 - It is sufficient for one Parent to satisfy the test
 - It is **not** sufficient to show that a Grandparent satisfied the test.
- The **time factors**:
 - The person concerned – the Applicant or Parent - must have had his or her usual place of residence in the parish **for at least 6 months**; and
 - In the case of a Parent, the period must have been **during the Applicant’s lifetime**.

Claiming that the Qualifying Connection exists

50 The form submitted by the Applicant should: :

- give the address where the Applicant or parent lived (or some good reason for not being able to provide it) – the Minister must be satisfied that it is in the parish; and
- state that it was the usual place of residence of the Applicant or the Applicant’s Parent or both; and
- identify as clearly as possible the period during which the Applicant and/or the Applicant’s Parent had his or her usual place of residence there, and in the case of a Parent also give the Applicant’s date of birth – the Minister has to be satisfied that the period amounted to least 6 months and, in the case of a Parent, that the period was during the Applicant’s lifetime.

Information to be supplied

51 It will often be possible to **establish all the elements of the Qualifying Connection together** from one of the following:

- the Minister’s own personal knowledge or that of another person at present holding office or serving in the parish; or
- information, in writing and signed, from e.g. a former parish priest or some other person who formerly held office or served in the parish, or some other independent person such as a doctor or solicitor, setting out the facts.

52 In the absence of the kinds of information described in para 51, it **may be necessary to establish the different elements separately**:

- The Applicant should be asked to produce information showing **residence** for the **necessary period** of at least 6 months by the types of document usually used as proof of residence, such as e.g.

Bank or building society statements	Social security benefit book
Entry on civil electoral roll	Council tax bill
Rent book	Utility bills
Official correspondence from a government department, local authority, or other public authority such as the Benefits Agency.	

If the Applicant is relying on a document or documents in any of these categories, the dates shown on them will need to cover the period of at least 6 months on which the Applicant relies;

and

- For the requirement of “**usual place of residence**”:
 - the Minister should use his or her own knowledge of the area – if the place is a normal home and there is no reason to doubt that the person concerned used it as a “home base”, the Minister can assume that the test in the Measure is satisfied;
 - If the Minister has some reason to think that the test is not satisfied, he or she should consult the diocesan register;

and

- If the Applicant relies on a **Parent's residence**:
 - The fact that the person is or was the Applicant's Parent can be proved as in para 47; and
 - If the residence is current or was fairly recent, it may be obvious that it has been during the Applicant's lifetime. In other cases this can be proved by the Applicant producing his or her birth certificate.

53 Cases may arise where the Applicant produces **some information but not sufficient to satisfy the Minister**. Here, it may be appropriate to ask for a statutory declaration – see paras 74-80.

HABITUAL ATTENDANCE AT PUBLIC WORSHIP IN THE PARISH FOR AT LEAST 6 MONTHS
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What the Measure requires

54 That the **Applicant or a Parent of the Applicant has habitually attended public worship in the parish for a period of not less than 6 months. In the case of a Parent, this must have been in the Applicant's lifetime.**

55 Here again, there are three elements:

- The person concerned must have habitually attended public worship in the parish. This is explained in more detail in paras 60-64; and
- That person must be the **Applicant** or a **Parent** of the Applicant (**not** a Grandparent). Parent means the same as in para 45 above, and it is sufficient for one Parent to satisfy the test; and
- The **time factors**:
 - The attendance must have continued **for at least 6 months**;
 - In the case of a Parent, the period must have been **during the Applicant's lifetime**.

Claiming that the Qualifying Connection exists

56 The form submitted by the Applicant should state where, on what occasions, how often and over what period the Applicant or Parent attended worship.

Information to be supplied

57 It will often be possible to **establish all the elements of the Qualifying Connection together** from one of the following

- the Minister's own personal knowledge or that of another person at present holding office or serving in the parish; or
- information, in writing and signed, from e.g. a former parish priest or some other person who formerly held office or served in the parish, or some other independent person - for example, in the case where the Applicant worshipped in the parish as a child, a statement from a present or former teacher, Sunday school leader, director of music or youth organisation leader setting out the facts.

58 If the Applicant relies on worship by a **Parent**:

- The fact that the person is or was the Applicant's Parent can if necessary be proved as in para 47;
- If the Parent still worships in the parish or did so in the fairly recent past, it may be obvious that this took place during the Applicant's lifetime. In other cases that can be proved by the Applicant producing his or her birth certificate.

59 Cases may arise where the Applicant produces **some information but not sufficient to satisfy the Minister**. Here, it may be appropriate to ask for a **statutory declaration** – see paras 74-80.

C. SPECIFIC QUESTIONS WHICH MAY ARISE IN INDIVIDUAL CASES

What is required to show that a person has “habitually attended public worship in [the] parish for not less than six months” under the Measure?

- 60 “**Habitually** “ is not defined by the Measure. It means “as a matter of habit” and requires an element of habit and regularity.
- 61 The **Minister should regard the test as satisfied** if:
- the person concerned has worshipped in the parish over a period of years and regularly attended worship at least three times a year at the same festivals/occasions (e.g. Christmas, Easter, Whitsun, Harvest Festival , Remembrance Sunday), unless he or she was prevented from doing so by e.g. illness; or
 - the person concerned has worshipped in the parish for a shorter period, but for 6 months or more, and has attended regularly at least once a month unless prevented by illness etc.
- 62 The Minister should **not** in any case adopt a stricter test than that which is normally applied in the parish in cases where a person applies for entry on the church electoral roll under the Church Representation Rules on the basis of habitual worship there for at least 6 months.
- 63 The **worship**:
- need not be in the parish church.
 - need not be on Sundays – for example it could be by a person regularly attending a weekday communion service in the parish near his or her place of work.
 - must be public worship - it would not for example cover worship in a school or college, restricted to pupils/students, staff and others connected with the school or college;
 - must be worship according to the rites of the Church of England. However, the Minister can assume (in the absence of any reason to think to the contrary) that a service satisfies this test if e.g.:
 - it takes place in a Church of England church or place of worship; or
 - it takes place in a formally constituted LEP (except in relation to Holy Communion presided over by a non-Anglican minister); or
 - it is a Church of England service in a shared church building.

If the Minister is in doubt about whether the case falls within the Measure, he or she should consult the diocesan registrar.

64 The **person attending**:

- need not have been baptised, a communicant or a member of the Church of England;
- need not have been an adult. For example, the Measure covers cases where the person concerned was a child or young person and was:
 - a member of the church choir;
 - a member of a youth organisation regularly attending at “church parades”; or
 - a pupil at a school which regularly worshipped as a body at services open to the public in the parish church say 3 times year, provided the person concerned attended regularly on these occasions.

Use of the church electoral roll to show a Qualifying Connection

65 **Entry on the church electoral roll** can be used to show an element of a **Qualifying Connection** in two ways:

- to show a **person’s address** and
- if the address is outside the parish, to show that the application for entry on the roll stated that the person concerned had **habitually attended public worship in the parish for at least 6 months**.

66 The **current** electoral roll can be used for these purposes. The Minister should be ready to take reasonable steps to provide the couple with a copy of the entry where it is or may be relevant.

67 A **past** electoral roll can also be used for the purposes set out above if it is available. However, it may not be available. There is no obligation on the parish to keep copies of past church electoral rolls. Thus an **Applicant cannot expect the Minister to be in a position to produce copies of past electoral rolls**.

Issues regarding identity

68 The fact that the Applicant, or someone else concerned, has **changed his or her name**, or that the **name** of someone involved is a **very common** one, can create problems. If the Minister has reason to doubt whether a claim to a Qualifying Connection is justified because of e.g. an issue of identity or a discrepancy over names, he or she should consult the diocesan registrar.

69 Subject to the previous paragraph, **unless the Minister or another person at present holding office or serving in the parish has personal knowledge of the facts** :

- The Applicant should be asked to supply documentary evidence of any relevant change of name – by means of a marriage certificate, deed poll etc.
- If there is no such evidence, because the person concerned has merely assumed the new name, the Applicant should preferably produce written and signed information from:

- a former office-holder or other person who has served in the past in the parish;
 - a professional person who is aware of the facts by virtue of a professional relationship with the person concerned e.g. a solicitor or doctor; or
 - some other independent person.
- If the only information available is a statement from the Applicant or a near relative, it is recommended that the minister should also require a statutory declaration from the Applicant; and
 - If a name involved is a very common one, then depending on the circumstances, the minister may again consider it appropriate to require a statutory declaration.

Where the place concerned is now in a different parish

70 The Measure makes special provision for cases where:

- the Applicant **has a connection with a church, place of worship or other place** because:
 - he or she was baptised there, or
 - he or she or a parent resided there or habitually attended worship there
 - his or her parent or grandparent was married there; or
 - his or her confirmation is entered in the register belonging to the church/ place of worship; and
- that **place is now in a different parish** from the parish where it stood at the time of those events because:
 - the **original parish has ceased to exist; or**
 - the **parish boundaries have been altered.**

In these cases the Applicant will have a Qualifying Confection with the parish where the church or other place now is, provided the other conditions are satisfied.

- 71 If there has been a change in the parish where the church or the other place is situated which is not covered by the previous paragraph, the couple should be advised to apply for a Special Licence.
- 72 If the Minister is uncertain about whether the special provisions of the Measure referred to above apply in the particular case, he or she should consult the diocesan registrar.
- 73 The fact that the place concerned is now in a **different benefice**, or is in a **parish whose name has changed**, does **not** affect the position under the Measure.

E. USE OF STATUTORY DECLARATIONS

Statutory declarations, how they are made and their legal effect

- 74 A statutory declaration is a **formal declaration**, made under the Statutory Declarations Act 1835. It is not made on oath, but **knowingly and wilfully making a false declaration is a criminal offence**. The declaration must be made before a solicitor with a current practising certificate, a Commissioner for Oaths or a Justice of the Peace, and in most cases a statutory fee will be payable. **Appendix 2 to this document contains a specimen form**, which can be adapted to cover the circumstances of the particular case.

When the Minister should and should not require a statutory declaration under the Measure?

- 75 The Minister **should not require a statutory declaration as a matter of course**, but only if he or she has a specific reason for deciding that one is necessary in order to satisfy him or her that a Qualifying Connection exists.
- 76 if the Minister has **reason to think that a claim to a Qualifying Connection may not be a genuine one**, he or she should not simply ask for a statutory declaration, but should consult the diocesan registrar before doing anything further regarding the application.
- 77 The following are **examples of cases where the Minister may decide it is appropriate to require a declaration**:
- Where the Applicant has provided some information to show the Qualifying Connection – e.g. habitual residence by a parent for at least 6 months - but not sufficient to demonstrate it completely, and the Minister considers that to require the Applicant to find and produce comprehensive information demonstrating all the elements of the Qualifying Connection would be unduly burdensome or disproportionate; or
 - Part or all of the information to demonstrate the Qualifying Connection consists of a statement from a person who cannot be regarded as independent of the Applicant e.g. a close relative.
- 78 If the Minister is in doubt as to whether to ask for a statutory declaration, he or she should consult the diocesan registrar. The Minister should in any case ask for a statutory declaration if the diocesan registrar advises that this should be done.

Who is responsible for drafting the declaration and paying any fee for making it

- 79 This is the **responsibility of the Applicant**. The Minister should make clear what he or she requires the declaration to state or confirm; if the Minister is in any doubt about this, he or she should consult the diocesan registrar. On that basis, the declaration should not normally be difficult to draft, using the specimen in Appendix 2.

However, if the Applicant needs help he or she will be responsible for obtaining it and, in the case of professional help, paying any fees involved.

Retaining the declaration

- 80 The Minister should retain the declaration even after the marriage, in case it is alleged later that the declaration was false and that the person who made it was guilty of an offence – see para 38.

F COMMON LICENCE CASES

- 81 As in the case of a parishioner's marriage in his or her parish church, there are some special cases where the marriage needs to be authorised by a common licence rather than taking place following the calling of banns. Examples are where:

- One of the couple is temporarily resident abroad, so that banns cannot be called where he or she is resident; or
- There has been some defect in the calling of the banns.

There are also some cases where a person to be married is a foreign national when it is considered advisable to apply for a common licence; these are explained in paras 90-91.

The diocesan registrar will be able to advise on when a common licence is needed and the procedure to be followed.

- 82 In a case under the Measure, the Applicant must **produce sufficient information, written or otherwise, to satisfy the person with authority to grant the licence that he or she has a Qualifying Connection with the parish.**

- 83 The person with authority to grant the licence will normally be a surrogate - an experienced priest in the diocese - or the diocesan registrar.

- It is important for the Applicant to recognise that the surrogate or registrar will not normally have the same local knowledge or knowledge of the family etc as the parish priest or those who serve or have served in the parish. If the Applicant wishes to rely on knowledge of this kind, he or she needs to produce a signed written statement by the person who can support the claim to a Qualifying Connection ; and
- the person granting the licence will not have custody of the parish registers; if the Applicant wishes to rely on an entry in such a register, he or she must produce a Certified Copy of it or other written confirmation from or on behalf of the person with custody of the register.

- 84 A statutory declaration cannot be used in a case under the Measure to support an application for a common licence. A person applying for a common licence must

make **an affidavit**, which is **made on oath**. It must state, among other things, that the person concerned has a Qualifying Connection with the parish and must state the nature of that connection. Knowingly and wilfully making a false affidavit for this purpose is a criminal offence.

PART III – GUIDANCE ON OTHER MATTERS UNDER THE MEASURE

A CASES WHERE THE APPLICANT UNDER THE MEASURE, OR THE OTHER PARTY TO THE PROPOSED MARRIAGE, IS DIVORCED AND HIS OR HER FORMER SPOUSE IS STILL LIVING

- 85 As in the case of any marriage where one of the parties has a former spouse still living, a minister is not under a duty to solemnise the marriage or to allow his or her church to be used for it. The House of Bishops has already published advice to the clergy on such cases, which applies equally to cases under the Measure. That advice and further information, including a leaflet with an application form for couples, is available on www.cofe.anglican.org/info/papers/mcad.
- 86 In cases of this kind under the Measure it is particularly important for the Minister whom the couple approach for marriage to know:
- whether the couple have previously approached any other member of the clergy for marriage; and
 - if so, why he or she was not willing to marry them. This may be because he or she does not solemnise any marriages of this kind on grounds of conscience. However, if the member of the clergy saw an objection to solemnising this particular marriage, it is most important that any other member of the clergy whom the couple approach subsequently should know of that fact and give it and the objection due weight.
- 87 The application form referred to in para 85 above requires couples to state: whether they have made any previous application and, if so, to give contact details for the member of the clergy they have already approached. In view of para 86, the member of the clergy to whom an application is now being made should always contact any minister who has previously been approached and inquire about the reasons for his or her refusal.

B MARRIAGE PREPARATION

- 88 There are two separate aspects to marriage preparation:
- As in any other case, the minister of the church where the marriage is to be solemnised is under an obligation under Canon Law to explain to the couple the Church's doctrine of marriage and the need for God's grace to discharge their obligations as married people (Canon B30 para 3). He or she can and should insist on discussing this with the couple before the marriage, irrespective of how far away from the parish they are living; and
 - The Minister should give a couple who are to be married in a parish under the Measure every encouragement to undertake whatever further marriage preparation is the usual practice in that parish. The Minister should discuss this with the couple at an early stage, and if they live too far away to take advantage of the

marriage preparation arranged in the parish, the Minister should be ready, with their agreement, to contact the parish priest where they or one of them lives to try to arrange for them to undertake marriage preparation there or in another nearby parish.

C ARE THERE ANY OTHER SPECIAL PASTORAL ISSUES IN THESE CASES?

- 89 It is important for the Minister to agree with the couple at an early stage that, if practicable, he or she will contact the parish priest of the parish where the couple plan to begin married life together and ask him or her to contact the couple, do anything appropriate to support them etc.

D CASES WHERE ONE OR BOTH OF THE COUPLE ARE FOREIGN NATIONALS

- 90 In some cases it is possible that a foreign person's own national law will not recognise his or her marriage in England. This can obviously cause difficulties for the couple, particularly if the foreign person wishes to return to the country in question with his or her spouse.

- 91 Because of the possible risks involved, *Anglican Marriage in England and Wales - A guide for the Clergy*, published by the Faculty Office of the Archbishop of Canterbury, recommends that even if a marriage by banns is legally possible, a Church of England marriage should be by common licence if either party is a national of any country **other than:**

- countries in the EU;
- the USA and
- certain Commonwealth countries – Canada, Australia, New Zealand and South Africa - where it can be assumed a valid marriage in the Church of England will be recognised.

If one or both of the couple are **foreign nationals from any other country**, the diocesan registrar should therefore be consulted.

- 92 The marriage of some foreign nationals also raises other possible issues. In addition to the above, any guidance issued by the diocesan bishop or the diocesan registrar regarding the marriage of foreign nationals should always be followed.

APPENDIX I

PARISH OF – ★

CHURCH OF ENGLAND MARRIAGE MEASURE 2008

Form for completion by a person who wishes to marry in the parish by virtue of a Qualifying Connection with the parish

A Warm Welcome - We are delighted that you wish to marry here.

The Minister of the parish, whose name and address are set out below, is under a legal duty to be satisfied that you can lawfully marry in the parish before the marriage can take place or a firm date and time can be fixed for it. To make this process as quick and simple as possible, whichever of you claims to have a connection with the parish is asked to complete this form and return it to the Minister.

PLEASE BEGIN BY READING THE FOLLOWING NOTES:

(1) Please complete all four parts (A, B, C and D. In Part D please complete sections 1 and 2 and the question(s) in section 3 which apply to you.

(2) Before completing the form, and in particular part D, you may well find it helpful to read the material on the Church of England Marriage Measure 200[] on the Church of England web site at [], including the House of Bishops' guidance on the Measure., if you do not have access to the internet the parish will be pleased to send you a copy of an explanatory leaflet and the House of Bishops' guidance.

(3) If you are not certain about how to complete any part of the form, please contact the parish for advice.

(4) If

- either of you has been married previously, and your former husband or wife is still alive; or*
- either of you is not a UK national;*

please alert the Minister to that as soon as possible, even before submitting the completed form, so that the special issues which arise can be considered without delay.

(5) When the Minister has considered the completed form, it is possible that the Minister may still need to ask you for some further documents or other information, or may need to ask someone holding a official position in the parish for further information in support of your connection with the parish. If any special issue arises in your case it is also possible that the Minister may need to ask for advice on it from the diocesan legal adviser. However, if any of these becomes necessary, the Minister will see that you are kept fully informed.

The Minister of the Parish is★:

[★The name and address of the Minister, and also the name of the parish at the head of this form, should be completed by the parish before it supplies copies of the form to couples,, either as paper copies or electronically.]

PART A – REQUEST TO MARRY IN PARISH

★ Person
*completing form–
please insert full
names of yourself
and your fiancé(e)*

I, ★, wish to be married to
..... ★ according to the rites of the Church
of England in the Parish of by virtue of my having a
qualifying connection with the parish under the Church of England
(Marriage Measure 200[]).

I confirm that the information and answers given in and supplied with
this form are correct to the best of my knowledge and belief.

Signed

Date

PART B – THE PROPOSED MARRIAGE

★ Parish to insert
possible alternatives

★★ Parish to insert
*this alternative if
only one possibility
under Measure*

★★★ Couple -
*please see
introductory
paragraph on page 1*

My fiancé(e) and I wish to be married in the following church /place of
worship in the parish★

Or My fiancé(e) and I wish to be married in the parish church of the
parish★★.

Our preferred date and time for the marriage would be

.....

.....★★★

PART D – YOUR QUALIFYING CONNECTION WITH THE PARISH

Please complete sections 1 and 2 and whichever questions(s) in section 3 apply

SECTION 1

Please tick relevant box or boxes

** This can apply whether or not you or your parent(s) are still resident in the parish*

*** This can apply whether or not you or your parent(s) are still attending worship in the parish*

1. I wish to rely on a connection with the parish by virtue of **one or more** of the following :

- A** I was baptised in the parish (by a Church of England service/form of baptism)
- B** I have been confirmed (by a Church of England service) and my confirmation is entered in a register belonging to a church or chapel in the parish
- C** My parent or grandparent was married in the parish by a Church of England service
- D** I have had my usual place of residence in the parish for at least 6 months*
- E** My parent has had his or her usual place of residence in the parish for at least 6 months during my lifetime*
- F** I have habitually attended public worship at Church of England services in the parish for at least 6 months**
- G** My parent has habitually attended public worship at Church of England services in the parish for at least 6 months during my lifetime**

Note: *In the Church of England Marriage Measure a **parent** means:*

- *a parent of either a legitimate or an illegitimate child; or*
- *an adoptive parent (This requires legal adoption); or*
- *a person "who has undertaken the care and upbringing" of another person.*

*For a **grandparent** one of the above three types of relationship must apply between each generation and the next, i.e. between the grandparent and the parent and between the parent and the person completing the form.*

SECTION 2

Does any of the information on which you are relying to show your connection with the parish:

- give a name for you which is different from the one you have used on this form; or
- give the surname for any parent or grandparent of yours which is different from your surname as set out on this form??

Yes/No★

If yes, please:

- give the previous/other name(s)
- explain how the difference has arisen and
- if the reason for the difference between the names is that you have changed your name, explain when and how the change(s) took place and provide any documentary information (e.g. adoption certificate, marriage certificate, deed poll for change of name)

★ *Please delete as appropriate*

PLEASE NOW GO ON TO COMPLETE THE PART(S) OF SECTION 3 WHICH CORRESPOND TO THE BOX(ES) YOU HAVE TICKED IN SECTION 1 ABOVE

SECTION 3

Please answer the questions which relate to the connection(s) you have ticked in section 1.

Please give exact dates, places, names etc if possible – if not, please give as much information as you can

As regards what documentary or other information will be needed, please see the paragraphs in the House of Bishops' guidance on the Church of England Marriage Measure (see front page) which deal with the relevant connection with the parish. The documents you supply will be returned to you.

Please complete your answer on a separate piece of paper if necessary and submit it with the form.

A I was baptised in the parish (by a Church of England service/form of baptism)

When were you baptised?

Where were you baptised?

What documentary or other information do you have for this? *Please submit any copy of an entry in the baptism register, baptism certificate or other documents with this form*

B I have been confirmed (by a Church of England service) and my confirmation is entered in a register belonging to a church or chapel in the parish

When were you confirmed?

Where were you confirmed?

Who prepared you for confirmation?

In which register is your confirmation recorded?

What documentary or other information do you have as regards the registration of your confirmation? *(Please submit any copy of an entry in the confirmation register, certificate etc or other documents with this form)*

C My parent or grandparent was married in the parish by a Church of England service

When and where did the marriage take place?

Please give names of the parties to the marriage, and state how the relevant party/parties are related to you.

What documentary or other information do you have for this? *(Please submit a copy of the relevant entry in the marriage register, marriage certificate or other documents with this form)*

<p><i>★This can apply whether or not you are still resident in the parish</i></p>	<p>D I have had my usual place of residence in the parish for at least 6 months★</p> <p>Please give</p> <ul style="list-style-type: none"> • each address at which you have been resident in the parish, and • the dates between which that address was/has been your usual place of residence <p>What documentary or other information do you have for the above? <i>(Please submit the documents with this form)</i></p>
<p><i>★ This can apply whether or not your parent(s) is/are still resident in the parish</i></p>	<p>E My parent has had his or her usual place of residence in the parish for at least 6 months during my lifetime★</p> <p>Please give:</p> <ul style="list-style-type: none"> • each address at which a parent of yours has been resident in the parish; • the name(s) of the parent(s) resident there; and • the dates between which that address is/was his/her/their usual place of residence <p>What documentary or other information do you have for the above? <i>(Please submit the documents with this form)</i></p>

<p><i>★ This can apply whether or not you are still attending worship in the parish</i></p>	<p>F I have habitually attended public worship at Church of England services in the parish for at least 6 months ★</p> <p>When did you begin to attend public worship habitually in the parish?</p> <p>If you no longer do so, when did you cease to do so?</p> <p>Please state:</p> <ul style="list-style-type: none"> • Where you worshipped in the parish during this period; • How often/on what occasions; and • What types of services you attended. <p>What documentary or other information do you have for the above? <i>(Please submit the documents with this form)</i></p>
<p><i>★ This can apply whether or not your parent(s) is/are are still attending worship in the parish</i></p>	<p>G My parent has habitually attended public worship at Church of England services in the parish for at least 6 months during my lifetime ★</p> <p>When did your parent(s) begin to attend public worship habitually in the parish?</p> <p>If that is no longer the case, when did it cease?</p> <p>Please give his/her/their name(s) and his/her/their address(es) over that period</p> <p>Please state:</p> <ul style="list-style-type: none"> • Where he/she/they worshipped in the parish during that period • How often/on what occasions; and • At what types of services <p>What documentary or other information do you have for the above? <i>(Please submit the documents with this form)</i></p>

APPENDIX 2

SPECIMEN STATUTORY DECLARATION

I Janet Mary Tombs of 2 Acacia Mansions, Holborn Gardens, London WC1X 2XX, DO SOLEMNLY AND SINCERELY DECLARE as follows:

1. I was born on 4th January 1970. I am the daughter of Gerald John Tombs and his wife Mary Tombs (who maiden name was Glover), and I shall refer to them below as “my parents”.

2. I am a professional singer. In connection with my work I am known by the name I use as my professional name, which is Geraldine Glover. I am also known by that name among my professional colleagues. However, I have continued to use the name Janet Mary Tombs for all other purposes, and I am the holder of a UK Passport No. [] issued to me in that name.

3. From about the middle of 1997 until they both died as a result of a road accident in August 2001 my parents lived at 27 Green Avenue, Snoring St John, Loamshire. During that time, they habitually attended public worship at the parish church of the neighbouring parish of Snoring St Mary the Virgin, by regularly attending the 8.00 a.m. Holy Communion service there on the third Sunday of each month, and also on Easter Sunday, unless they were ill or away from home (for example on holiday). This was because they appreciated the form of Holy Communion service which was used at St Mary’s on those occasions, and which was not in regular use in the parish church of the parish where they lived.

4. At that time I was resident in London, and I do not claim that I personally have habitually attended public worship in the parish of at Snoring St Mary the Virgin, but I sometimes accompanied my parents to the services at the parish church there on the occasions when I was staying with them at their home in Snoring St John.

5. AND I make this solemn declaration conscientiously the same to be true and by virtue of the provisions of the Statutory Declarations Act 1835.

SIGNED AND DECLARED at)

.....)

in the County of

This day)

of..... 200[])

Before me)

.....)

Solicitor/Commission for oaths)

APPENDIX 3

GLOSSARY of terms used in this document

Applicant	The person who is seeking to marry in a parish under the Measure and to establish a Qualifying Connection
Certified Copy	A copy of a document or entry in a register which has been certified as correct by or on behalf of the person with custody of the original document/register
Grandparent	See para 45.
the Measure	The Church of England Marriage Measure 200[]
the Minister	See para 23.
Parent	See para 45.
Qualifying Connection	See para 6.