



Home Office

# Sham marriage changes resulting from the end of free movement

January 2021

References to 'marriage' throughout this document includes both marriage and civil partnership, where appropriate.

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# Top Lines

- From 1 July 2021, changes will come into effect which bring EEA citizens within scope of the referral and investigation scheme (the referral scheme). This is consistent with wider changes to treat EEA and non-EEA citizens equally within the UK's future immigration system to reflect the end of free movement.
- Those persons with an immigration status granted under the EU Settlement Scheme (EUSS) or with a pending application to the EUSS will be exempt from the referral scheme, reflecting our obligations under the Withdrawal Agreement. Irish citizens will continue to be exempt from the referral scheme.
- All register offices in England and Wales will be designated for the purpose of giving notice and a couple in scope of the referral scheme will be required to give notice together at a designated register office in the district where one or both of the parties reside.
- Any couple including an EEA citizen wishing to marry in the Anglican Church will be required to complete civil preliminaries and give notice at a register office before their marriage.
- EEA citizens will no longer be able to use their national ID card as evidence of nationality when giving notice to marry or form a civil partnership.
- EEA citizens who arrive in the UK will require a mandatory marriage visitor visa if they are travelling to the UK for that purpose. Irish citizens and those with EUSS status will remain exempt from this requirement.

# Q&A

## **What changes are you making?**

From 1 July 2021:

- Secondary legislation will amend the definition of a 'relevant national', that is those who are exempt from the referral and investigation scheme, to include a person with EUSS status (either 'settled status' or 'pre-settled status'), or with a pending application to the EUSS submitted before 1 July 2021. This will align the treatment of EEA citizens who are not protected by the withdrawal agreements with non-EEA citizens.
- All register offices in England and Wales will be designated for the purpose of taking notice from couples who are in scope of the referral scheme. Such couples will be required to give notice together at a designated register office (DRO) within a district where at least one of them resides.
- Any couple including an EEA citizen wishing to marry in the Anglican Church will be required to complete civil preliminaries and give notice at a register office before their marriage.
- EEA citizens will no longer be able to use their national ID card as evidence of nationality when giving notice to marry or form a civil partnership.
- EEA citizens who arrive in the UK will require a mandatory marriage visitor visa if they are travelling to the UK for that purpose. Irish citizens and those with EUSS status will remain exempt from this requirement.

## **Why do the changes commence on 1 July 2021?**

- To avoid potential difficulties in distinguishing between newly arriving EEA citizens and those eligible for status under the EUSS during the grace period, amendments to the referral and investigation scheme will commence after the end of the grace period on 30 June 2021 (the deadline for applications under the EUSS). From 1 July 2021 EEA citizens who are protected by the withdrawal agreements will be easily distinguished from other EEA citizens.

## **Why are you making these changes?**

- These changes extend the sham marriage provisions to EEA citizens, aligning the treatment of EEA citizens who are not protected by the withdrawal agreements with non-EEA citizens following the end of free movement.

## **Will these changes apply to Scotland and Northern Ireland?**

- Yes. The change to the definition of a relevant national will apply across the UK.

## **Will anything change during the grace period (until and including 30 June 2021)?**

- No. EEA citizens can continue to use their EEA passport or national ID card as evidence of nationality during marriage preliminaries (for example when giving notice to

marry or form a civil partnership or prior to having banns read) and will remain exempt from the referral scheme if they are seeking to marry another exempt person.

- Non-EEA nationals who provide evidence of having settled status (indefinite leave to enter or remain) including EU settled status, will continue to be treated as an exempt person under the referral scheme on the basis of having an 'appropriate immigration status'.

### **How will these changes be made?**

- These changes are being brought into effect through changes made to secondary legislation as a consequence of the ending of free movement.

### **How will you communicate the changes?**

- There will be guidance on GOV.UK, and we are working with the Local Registration Services, Devolved Administrations and the Anglican Church to ensure published information is updated, and staff are fully aware of the changes to be able to advise individuals accordingly.

### **Are you giving enough notice to couples of these changes?**

- Five months' notice should generally be sufficient for genuine couples to make arrangements in good time for their marriage or civil partnership. Those giving notice, or having banns read, before 1 July 2021 will continue to do so under the current system.

## **BACKGROUND**

### **EU exit and the EU Settlement Scheme (EUSS)**

- On 31 December 2020 the EEA Regulations were revoked and EU free movement ended. As a result, EEA citizens and their family members will require permission to enter and remain in the UK.
- EEA citizens and their family members lawfully resident in the UK before the end of the transition period on 31 December 2020 on the basis of their EU free movement rights, should seek to regularise their immigration status by making an application to the EU Settlement Scheme (EUSS) before the end of the grace period (30 June 2021). EUSS status may be granted to any nationality provided they meet the eligibility and suitability requirements of the EU Settlement Scheme.
- During the grace period which runs between 1 January 2021 and 30 June 2021, EEA citizens and their family members lawfully resident in the UK before the end of the transition period on 31 December 2020 who do not yet have leave under the EU Settlement Scheme (EUSS), have residence rights in the UK protected under secondary legislation (the Citizens' Rights (Application Deadline and Temporary Protection) (EU Exit) Regulations 2020).
- The EUSS is available to EU, EEA or Swiss citizens, and their family members who are resident in the UK by the end of the transition period (31 December 2020). If their application is successful, they are granted either settled or pre-settled status, allowing them to continue to live, work, study and marry in the UK broadly as now, after 30 June

2021. The deadline for applying is 30 June 2021. See: <https://www.gov.uk/settled-status-eu-citizens-families> for more information.

### **What is a sham marriage?**

- A sham marriage, as defined under sections 24 and 24A of the Immigration and Asylum Act 1999, is one in which one or both parties are not 'relevant nationals', there is no genuine relationship between the parties, and either, or both, of the parties enter the marriage for the purpose of circumventing UK immigration controls.
- Sham marriages allow individuals to gain an immigration advantage to which they are not entitled and, in many cases, may be linked to wider organised crime. The Home Office focuses its efforts on disrupting facilitators as well as prosecuting individuals involved in sham marriages.
- Anyone with information about suspected a sham marriage or other immigration abuse can contact Crimestoppers on 0800 555 111 anonymously or visit the Crimestoppers website at <https://www.crimestoppers-uk.org>

### **What is the marriage referral and investigation scheme?**

- The marriage referral and investigation scheme, introduced under the Immigration Act 2014, provides a strong platform for effective action to identify, disrupt and deter sham marriages and civil partnerships. The referral scheme applies to couples where one or both parties could gain an immigration advantage from the marriage or civil partnership and allows the Home Office to investigate and take enforcement action where appropriate. Holders of relevant marriage visas (such as a marriage visitor visa or fiancé visa) or those with an appropriate immigration status (exemption from immigration control or settled in the UK) are exempt from referral to the Home Office.

### **Why are frontier workers/Swiss service providers/S2 healthcare cohort not exempt from the referral scheme?**

- Frontier workers, service providers from Switzerland and the healthcare cohort do not have the same residence rights as people with status under EUSS and are not eligible for settlement in the UK. It is therefore possible they could seek to gain an immigration advantage through marriage to a relevant national. It would not therefore be appropriate to exempt them from the referral scheme.

## **RELEVANT NATIONAL**

### **Who is a relevant national?**

- Until and including 30 June 2021 a relevant national is a British citizen, Swiss national, or EEA national.
- From 1 July 2021, the definition of a relevant national will include a British citizen, Irish citizen, a person with leave granted under the EUSS, or a person with a pending application to the EUSS (submitted before 30 June 2021).
- Under the referral scheme a registration officer is not required to refer a couple to the Home Office if both parties to the marriage are exempt persons; this includes a

relevant national, a person who has the appropriate immigration status or a person who holds a relevant visa.

- A relevant national wishing to marry another relevant national is not required to give notice at a designated register office.

### **What evidence does a person with EUSS status or a pending EUSS application need to provide when giving notice or seeking authority to marry?**

- A person with EUSS status is required to share their status through the online EUSS status checker tool. The holder must request a six digit 'share code' to provide to the registration officer or member of the clergy either before or at their initial appointment to give notice to marry. The person's name, date of birth and code will be used to confirm that the person has been granted EUSS status.
- A pending decision on an EUSS application made before the settlement scheme closes on 30 June 2021 can be confirmed by a certificate of application.
- The six digit share code can be requested on the 'view and prove your settled or pre-settled status page' on GOV.UK at: <https://www.gov.uk/view-prove-immigration-status>.
- The EUSS online status checker tool is located on the 'check someone's settled or pre-settled status' page on GOV.UK: <https://www.gov.uk/view-prove-immigration-status>.

### **What if a person cannot provide specified evidence of their nationality or EU Settlement Scheme status?**

- A person who is unable to provide specified evidence of their nationality will not be able to give notice of marriage or civil partnership, or have banns read within the Anglican Church. They will be advised to contact the Home Office (if they are a British citizen) or their Embassy or High Commission to obtain this evidence before they can give notice. Individuals who are unwilling to contact their Embassy or High Commission, for example because they have been granted refugee status should contact the Home Office for advice.
- A person who is neither British nor Irish, and who is unable to provide specified evidence to confirm that they hold status under the EUSS will be treated as if they are not a 'relevant national', and they will be required to give notice with their fiancé(e) or proposed civil partner at a designated register office and the couple will be subject to referral to the Home Office.

## **MARRIAGE VISITOR VISAS**

### **What is a marriage visitor visa and who needs one?**

- The marriage visit visa is mandatory for anyone subject to immigration control who wishes to visit the UK to marry or form a civil partnership or give notice of a marriage. Applicants must be aged 18 or above and can apply three months in advance of travel to the UK. The visas are usually granted for a period of six months. For more information see <https://www.gov.uk/marriage-visa>.
- From 1 July 2021 all EEA citizens (except those with EUSS status) must obtain a marriage visit visa if they intend to come to the UK for marriage or to give notice of a marriage.

- A holder of a marriage visitor visa is exempt from the referral scheme and will not be referred to the Home Office.

## DESIGNATED REGISTER OFFICES (DRO)

### Why are you increasing the number of designated register offices?

- Currently there are 75 Designated Register Offices throughout England and Wales. From 1 July 2021, all register offices in England and Wales will be designated. This reflects the extension of the scheme to EEA citizens (except those with EUSS status) and the requirement for EEA citizens marrying in the Anglican Church to give notice at a register office before their marriage.

### Why do couples giving notice at a DRO need to attend one in their residential district?

- Those required to give notice at a DRO must attend with their partner in the district where one or both reside. This aligns the process for giving notice with British citizens who are already required to give notice in the district where they reside.

### Will giving notice or seeking authority to marry take longer or cost more for EEA citizens who are required to give notice at a designated register office as a result of these changes?

- In England and Wales, couples who are not subject to the referral scheme, generally incur notice fees of £35 to give notice under civil preliminaries, or fees varying between £31 to £107 to have banns read in Church (the cost varies depending on the number of parishes required to publish banns). In comparison, couples giving notice at a designated register office in England or Wales will incur fees of £47.
- Couples who are not subject to Home Office investigations should see no significant difference in the time taken to obtain authority to marry. Civil preliminaries require a minimum notice period of 28 days, which is comparable to the minimum 28 days generally required for the calling of banns within the Anglican Church. This may be extended to a maximum of 70 days where the Home Office wish to investigate a proposed marriage.

## ANGLICAN CHURCH

### Will these changes affect marriages in the Anglican Church?

- Yes. EEA citizens who are neither British, Irish nor hold EUSS status will no longer be able to have banns read within the Anglican Church and instead will be required to give notice at a designated register office. They may still marry in the Anglican Church once authority to marry is granted through civil preliminaries and they are issued with a superintendent registrar's certificate, in the same way as non-EEA nationals are required to do now.
- Both parties will need to present their superintendent registrar's certificate to the minister to evidence that they have completed the notice process under civil preliminaries and can get married. In line with couples who are able to have banns



read, they would need to approach the Church to arrange their marriage, to show a connection with the Church, and they also may be required to show regular attendance prior to the marriage or to attend marriage preparation lessons.

- From 1 July 2021 a non-EEA national with EUSS status, who marries another relevant national, may have banns read within the Anglican Church.

## **MARRIAGE AND CIVIL PARTNERSHIP IN THE UK FROM 1 JULY 2021**

### **What do these changes mean for an EEA citizen marrying in the UK from 1 July 2021?**

- There will be no change for EEA citizens who have EUSS status or a pending application under the settlement scheme. If they are marrying someone who is not a 'relevant national', both individuals will be in scope of the referral scheme as now.
- EEA citizens who do not have status under the EUSS (or a pending application) will be in scope of the referral scheme.
- They will be required to give notice together with their partner at a designated register office and may be subject to an extended notice period of 70 days if the Home Office decides to investigate suspicion of sham marriage.
- Whilst they will not be able to have banns read in the Anglican Church, they may, if they wish, still marry in the Anglican Church once authority to marry is granted through civil preliminaries.
- They will require a marriage visitor visa if they are travelling to the UK for that purpose.

### **What do these changes mean for a non-EEA citizen marrying in the UK from 1 July 2021?**

- Non-EEA citizens who have status under the EU Settlement Scheme (EUSS) or a pending EUSS application, will for the first time be treated as a 'relevant national'. Where they are marrying another 'relevant national', they will no longer be in scope of the referral scheme, will be able to give notice at their local register office, and will be subject to a maximum notice period of 28 days. They will also be able to have banns read in the Anglican Church.
- Non-EEA citizens who have status under the EU Settlement Scheme or a pending application who are marrying someone who is not a 'relevant national' will be in scope of the referral scheme as before.
- There will be no change for non-EEA citizens without status under the EUSS. The position will remain unchanged. They remain in scope of the referral scheme and require a marriage visitor visa if they are travelling to the UK for that purpose.

## TRANSITIONAL ARRANGEMENTS

**What arrangements are in place for couples who have already started marriage preliminaries before 1 July 2021, but where one or both of the party will no longer be a relevant national from 1 July 2021?**

- For couples marrying following civil preliminaries, where both parties to the marriage have given notice of marriage, they will not be required to give notice again at a designated register office. Where only one party to the marriage has given notice of marriage, they must both give notice again, together, at a designated register office in the district where one or both of the parties resides.
- For couples marrying following church preliminaries, they will not be required to give notice at a designated register office if any one of the following applies:
  - banns of matrimony have been published on at least one Sunday before 1st July 2021;
  - both parties have given notice of the marriage before 1st July 2021 together with evidence that they were, at that time, relevant nationals;
  - a common licence for the marriage was granted before 1st July 2021;
  - an application for a common licence was received but not determined by 1st July 2021, and such application included evidence that the parties were at that time relevant nationals; or
  - one of the parties has sworn the oaths required for a common licence before a person with authority to grant the licence.
- By announcing these changes at least five months prior to their commencement, there should be sufficient notice for couples to make arrangements to give the necessary notice or complete the relevant preliminaries.
- Where a couple have already received authority to marry before 1 July 2021, they will be able to marry whilst that authority remains valid. If the authority expires before the marriage is solemnised, the couple will need to give notice again, together, at a designated register office in the district where one or both of the parties resides.

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