

**EXPLANATORY MEMORANDUM TO**  
**THE MARRIAGES AND CIVIL PARTNERSHIPS (APPROVED PREMISES)**  
**(AMENDMENT) REGULATIONS 2011**

**2011 No. 2661**

1. This explanatory memorandum has been prepared by the Home Office and is laid before Parliament by Command of Her Majesty.

2. **Purpose of the instrument**

2.1 These Regulations amend the Marriages and Civil Partnerships (Approved Premises) Regulations 2005 (S.I. 2005/3168) (“2005 Regulations”) so as to enable religious premises to be approved as places where civil partnership registrations (but not civil marriages) may take place.

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 None.

4. **Legislative Context**

4.1 Section 202 of the Equality Act 2010 amended the Civil Partnership Act 2004 (“the Civil Partnership Act”) so as to enable religious premises to be approved as places at which civil partnership registrations may take place, something that was previously prohibited under that Act. The 2005 Regulations set out the legislative scheme whereby premises are approved by local authorities as places where civil marriages and civil partnership registrations may take place. These Regulations amend the 2005 Regulations so as to enable religious premises to be approved as places where civil partnership registrations (but not civil marriages) may take place.

5. **Territorial Extent and Application**

5.1 This instrument applies to England and Wales.

6. **European Convention on Human Rights**

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

## **7. Policy background**

7.1 Under the Marriage Act 1949 a distinction is made between religious marriage and civil marriage. The former may be solemnized on religious premises, such as a church and the latter in a register office or on approved premises such as a hotel. Religious premises may not be approved for these purposes. Under the Civil Partnership Act civil partnerships could only be registered in a register office or on approved premises, which as in the case of civil marriage, could not until now be religious premises.

7.2 Section 202 of the Equality Act 2010 amended the Civil Partnership Act and, in particular, removed the prohibition on religious premises being approved for the registration of civil partnerships. The provision is entirely permissive and religious organisations will not be obliged to host civil partnership registrations if they do not wish to do so. The mechanism for introducing this change is to amend the approved premises scheme.

7.3 The framework for the approval of premises for marriages and civil partnership registrations is set out in the 2005 Regulations. Proprietors of premises wishing to be approved must apply to their local authority which must consider the application in accordance with the requirements set out in the 2005 Regulations and, if approval is granted, attach standard conditions of approval together with any others that the authority considers necessary. Approval is currently for a period of three years (although this is being amended by these Regulations to allow for a licence period beyond three years) although there are grounds on which it can be revoked. These Regulations amend the 2005 Regulations and establish the procedure for religious premises to be approved for civil partnership registrations.

7.4 The procedure and basis on which approvals will be granted will be broadly the same as that which currently applies to secular premises. One important difference however is that a proprietor of religious premises will be required to demonstrate that he or she has the consent of the governing religious organisation for those premises to make an application. This is in order that religious denominations are able to decide whether their premises may be approved for civil partnership registrations, or not, as the case may be. In relation to certain types of premises, and in particular those that indicated they wished to be included, the name of the consenting body is specified in the regulations themselves.

7.5 This change is being introduced as part of the Government's commitment to advancing equality for Lesbian, Gay, Bisexual and Transgender people and ensuring freedom of religion for people of all faiths. It removes an existing barrier that prohibits civil partnership registrations taking place on religious premises where they are approved for that purpose.

## **Consolidation**

7.6 These Regulations amend the 2005 Regulations. It is the first amendment to the 2005 Regulations and there are no plans to consolidate at this time.

## **8. Consultation outcome**

8.1 The Government published a public consultation document on this proposal on 31 March 2010. The consultation ran until 23 June 2011. The consultation outcomes and the Government's response were published on 2 November 2011. There were 1,617 responses to the consultation. Of these, 343 responses were on the official pro forma which addressed each question in turn and 1,274 were responses by email or letter. Of those submitting the official pro forma, 145 were from organisations and 198 from individuals.

8.2 The majority of the letters or emails were objecting to the introduction of this proposal on principle rather than focusing on the detail of the consultation which was the practical arrangements to put in place the changes to the approved premises scheme. The consultation analysis focused on the responses that addressed the proposals made in the consultation document. There was broad agreement to the majority of the proposals contained in the consultation, however the Government has, when making the amendments to the 2005 Regulations, reflected those responses in a number of ways. In particular:

- local authorities may decide not to inspect religious premises in respect of which an application has been made (they are required to inspect other premises) if they do not think it is necessary to do so (because, for example, the premises are already used for religious marriages);
- local authorities may now choose whether to give notice of applications for approval on their website or in a local newspaper (previously it had to be in a newspaper);
- whilst approvals must last for at least three years it will be for local authorities to determine their duration (presently they may only be granted for a period of three years);
- the prohibition on the consumption of food and drink has been relaxed to allow for the same to be consumed prior to the civil partnership registration in so far as that is part of a religious ceremony (the prohibition during the registration itself is maintained) and non-alcoholic drinks may also be consumed prior to the civil partnership registration, or civil marriage in a secular premises;
- the restriction on any religious content during the civil partnership registration applies only during the formal civil partnership registration itself;

- in response to concerns expressed by various religious organisations and representative bodies as well as individuals that proprietors of religious premises will be required to apply for approval, the regulations clarify that they do not oblige proprietors to make an application in respect of their religious premises. This mirrors the provision contained in the Civil Partnership Act itself (section 6A(3A))<sup>1</sup>

8.3 The full consultation analysis and Government response can be viewed on the Government Equalities Website [www.homeoffice.gov.uk/equalities/](http://www.homeoffice.gov.uk/equalities/)

## **9. Guidance**

9.1 The Registrar General for England and Wales will publish guidance that will be available to local authorities, registration officers, citizens and faith groups setting out the details of the approved premises scheme.

## **10. Impact**

10.1 The impact on business, charities or voluntary bodies is minimal as this provision is an entirely voluntary measure.

10.2 The impact on the public sector is low as this change builds on the existing approved premises scheme operated by local authorities. It is forecast that there will be an initial familiarisation cost to local authorities, totalling £0.14m nationally.

10.3 An Impact Assessment is attached to this memorandum and will be published alongside the Explanatory Memorandum on [www.legislation.gov.uk](http://www.legislation.gov.uk).

## **11. Regulating small business**

11.1 The legislation does not apply to small business.

## **12. Monitoring & review**

12.1 The Government has no specific targets in this area as the changes remove a current prohibition, though in a permissive way. There have however been a number of minor changes to the computer systems that are used for the administration of civil partnerships which will allow the Office for National Statistics to identify the number of premises approved for civil partnership registrations and subsequently the number of registrations that take place on those premises.

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<sup>1</sup> “For the avoidance of doubt, nothing in this Act places an obligation on religious organisations to host civil partnerships if they do not wish to do so.”

12.2 This provision will be considered as part of the post implementation review of the Equality Act 2010 scheduled for 2015

### **13. Contact**

Eric Powell at the Identity and Passport Service (tel. 0151 471 4452 or e-mail: [Eric.Powell@ips.gsi.gov.uk](mailto:Eric.Powell@ips.gsi.gov.uk)) can answer any queries regarding the instrument.