

2021 No. 775

**REGISTRATION OF BIRTHS, DEATHS & MARRIAGES,
ETC., ENGLAND AND WALES**

CIVIL PARTNERSHIP, ENGLAND AND WALES

**The Marriages and Civil Partnerships (Approved Premises)
(Amendment) Regulations 2021**

<i>Made</i> - - - -	<i>29th June 2021</i>
<i>Laid before Parliament</i>	<i>30th June 2021</i>
<i>Coming into force</i> - -	<i>1st July 2021</i>

The Secretary of State, in exercise of the powers conferred by sections 46A(1), (2) and (4) and 46B(2) of the Marriage Act 1949(a) and sections 6A and 258 of the Civil Partnership Act 2004(b), makes the following Regulations.

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Marriages and Civil Partnerships (Approved Premises) (Amendment) Regulations 2021 and come into force on 1st July 2021.

(2) These Regulations extend to England and Wales.

Interpretation

2. In these Regulations—

“the 2005 Regulations” means the Marriages and Civil Partnerships (Approved Premises) Regulations 2005(c); and

“approval” has the same meaning as in the 2005 Regulations.

Amendments to the 2005 Regulations

3.—(1) The 2005 Regulations are amended as follows.

(2) In regulation 2 (interpretation) —

(a) in paragraph (1)—

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- (a) 1949 c. 76; sections 46A and 46B(2) were inserted by section 1(2) of the Marriage Act 1994 (c.34) and amended by S.I. 2008/678. Functions previously conferred on the Chancellor of the Exchequer in 46A(1) were transferred to the Secretary of State by article 3(1) of, and paragraph 5 of Schedule 1 to, S.I. 2008/678.
- (b) 2004 c. 33; section 6A was inserted by article 3 of, and paragraph 3 of the Schedule to, S.I. 2005/2000 and was amended by section 202 of the Equality Act 2010 (c. 15) and S.I. 2019/1458 and 2008/678. Functions previously conferred on the Chancellor of the Exchequer in subsection (1) were transferred to the Secretary of State by article 3(1) of, and paragraph 14(a) of Schedule 1 to, S.I. 2008/678.
- (c) S.I. 2005/3168, amended by S.I. 2011/2661, 2013/2294, 2019/1458 and 2021/411.

- (i) after the definition of “authority” insert—
 - “built premises” means a permanently immovable structure comprising at least a room, or any boat or other vessel which is permanently moored;”;
 - (ii) after the definition of “holder of an approval” insert—
 - ““linked outdoor areas” means any areas within the boundary of the land of which the built premises form part, which are not indoors and which may be used in common with the built premises;”;
 - (iii) in the definition of “premises”, for the words from “a permanently immovable” to the end substitute “built premises together with linked outdoor areas;”;
 - (iv) for the definition of “religious premises” substitute—
 - ““religious premises” means premises where the built premises—
 - (a) are used solely or mainly for religious purposes, or
 - (b) have been so used and have not subsequently been used solely or mainly for other purposes;”;
 - (v) in the definition of “shared building”, after “religious premises” insert “where the built premises are”;
- (b) after paragraph (1B) insert—
- “(1C) An area is indoors if it is a space which is enclosed, or substantially enclosed.
- (1D) For the purposes of paragraph (1C)—
- (a) a space is enclosed if it—
 - (i) has a ceiling or roof; and
 - (ii) except for doors, windows and passageways, is wholly enclosed either permanently or temporarily;
 - (b) for the purposes of paragraph (1C), a space is substantially enclosed if it has a ceiling or roof but there is—
 - (i) an opening in the walls; or
 - (ii) an aggregate area of openings in the walls,
 - which is less than half of the area of the walls, including other structures that serve the purposes of walls and constitute the perimeter of the space.
 - (c) in determining the area of an opening or an aggregate area of openings for the purposes of sub-paragraph (b), no account is to be taken of openings in which there are doors, windows or other fittings that can be opened or shut.
 - (d) in this paragraph “roof” includes any fixed or moveable structure or device which is capable of covering all or part of the space as a roof, including, for example, a canvas awning.”
- (3) In regulation 5 (grant or refusal of approval)—
- (a) in paragraph (1A)(b), after “religious premises” insert “where the built premises are”;
 - (b) in paragraph (1B), for “Religious premises” substitute “In relation to religious premises, the built premises”.
- (4) In regulation 6 (conditions)—
- (a) in paragraph (1)(a), after “Schedule 2” insert “and Schedule 2B”;
 - (b) in paragraph (1)(aa), after “Schedule 2A” insert “and Schedule 2C”.
- (5) In Schedule 1 (requirements for the grant of approval of premises that are not religious premises)—
- (a) in paragraph 1, after “repair, the” insert “built”;
 - (b) in paragraph 2, after “The”, in the first place it occurs, insert “built”;
 - (c) in paragraph 3—

- (i) after “The”, in the first place it occurs, insert “built”;
 - (ii) after “visiting the” insert “built”;
- (d) in paragraph 4(b)—
 - (i) at the beginning, insert “premises where the built premises are”;
 - (ii) for “in which” substitute “where”;
 - (iii) after “is situated” insert “in the built premises”;
- (e) in paragraph 5—
 - (i) after “to take place” insert “in the built premises”;
 - (ii) after “part of the” insert “built”;
- (6) In Schedule 1A (requirements for the grant of approval of religious premises)—
 - (a) in paragraph 1, after “repair, the” insert “built”;
 - (b) in paragraph 2, after “applies, the” insert “built”;
 - (c) in paragraph 3—
 - (i) after “The”, in the first place it occurs, insert “built”;
 - (ii) after “visiting the” insert “built”;
 - (d) in paragraph 4—
 - (i) after “to take place” insert “in the built premises”;
 - (ii) after “part of the” insert “built”.
- (7) In Schedule 2 (conditions to be attached to grants of approval of premises that are not religious premises)—
 - (a) in paragraph 1, for “these conditions” in both places where it appears, substitute “the conditions attached to the approval”;
 - (b) in paragraph 6—
 - (i) at the beginning, insert “For the purposes of proceedings held in the built premises,”;
 - (ii) after “entrance to the” insert “built”;
 - (c) at the beginning of paragraph 7(1), insert “For the purposes of proceedings held in the built premises,”;
 - (d) in paragraph 8, after “All proceedings”, insert “held in the built premises”;
 - (e) in paragraph 9—
 - (i) at the beginning, insert “For the purposes of proceedings held in the built premises,”;
 - (ii) after “activity on the” insert “built”;
 - (f) in paragraph 10, for the words from “district, or” to the end, substitute “district in which the approved premises are situated, or authority, as the case may be.”
- (8) In Schedule 2A (conditions to be attached to grants of approval of religious premises)—
 - (a) in paragraph 1, for “these conditions” in both places it appears substitute “the conditions attached to the approval”;
 - (b) in paragraph 10—
 - (i) at the beginning, insert “For the purposes of proceedings held in the built premises,”;
 - (ii) after “entrance to the”, insert “built”;
 - (c) in paragraph 11(1), at the beginning insert “For the purposes of proceedings held in the built premises,”;
 - (d) In paragraph 12—
 - (i) for “the” in the first place it occurs, substitute “All”;
 - (ii) after “proceedings” insert “held in the built premises”;
 - (e) in paragraph 13—

- (i) at the beginning, insert “For the purposes of proceedings held in the built premises,”;
- (ii) after “activity on the”, insert “built”.

(9) After Schedule 2A, insert new Schedule 2B, which is set out in Schedule 1 to these Regulations.

(10) After Schedule 2B, insert new Schedule 2C, which is set out in Schedule 2 to these Regulations.

Church of England: faculty jurisdiction

4.—(1) In relation to a church or chapel of the Church of England, nothing in these Regulations is intended to oust the faculty jurisdiction.

(2) In this regulation, a church or chapel of the Church of England includes—

- (a) a church or chapel to which a sharing agreement relates (whether or not it is in the sole ownership of the Church of England);
- (b) a church or chapel which is a shared building;
- (c) a cathedral church.

Expiry

5.—(1) These Regulations expire at the end of 5th April 2022.

(2) On and after the expiry of these Regulations, any approval granted before the expiry of these Regulations is to have effect as though it were granted under the 2005 Regulations without the amendments or modifications made by these Regulations.

(3) This regulation is without prejudice to—

- (a) any action that an authority is taking or may take under regulation 8(1) of the 2005 Regulations; or
- (b) any action that the Registrar General is taking or may take or may direct an authority to take under regulations 8(6) and (7) of the 2005 Regulations.

Transitional provision

6.—(1) Paragraph (2) applies to any application or request, which has been received by an authority before the relevant date and has yet to be determined and has not been withdrawn on the relevant date, that was for—

- (a) an approval under the 2005 Regulations;
- (b) a renewal of an approval under the 2005 Regulations;
- (c) a review of a decision under regulation 9(1) of the 2005 Regulations;
- (d) modification by a holder of an approval of religious premises under regulation 17(3) of the 2005 Regulations; or
- (e) a review of a decision under regulation 17(8) of the 2005 Regulations;
and such an application or request is referred to in this regulation as an “existing application”.

(2) Subject to paragraph (3), an existing application is to be treated on and after the relevant date as an application made under the 2005 Regulations as amended by these Regulations.

(3) For the purposes of an existing application, a reference to “premises” in the following provisions of the 2005 Regulations—

- (a) regulation 3(2)(b);
- (b) regulation 3A(2)(b);
- (c) paragraph 4(a) of Schedule 2, in the first place it occurs;
- (d) paragraph 4(a) of Schedule 2A, in the first place it occurs;

is to be read on and after the relevant date as if it were a reference to “built premises”.

(4) Paragraph (5) applies to—

(a) any approval—

(i) granted under the 2005 Regulations which has not expired before the relevant date;
or

(ii) granted under the 2005 Regulations before the relevant date that is reinstated on or after the relevant date in accordance with regulation 7(6) of the 2005 Regulations.

(5) The approval is to have effect on and after the relevant date as if it were granted under the 2005 Regulations as amended by these Regulations in respect of both the built premises and the linked outdoor areas.

(6) For the purposes of an approval to which paragraph (5) applies, and subject to paragraph (8), on and after the relevant date the approval in respect of premises that are not religious premises is to be treated as if only the following conditions were attached—

(a) the standard conditions contained in Schedule 2 of the 2005 Regulations—

(i) as amended by regulation 3(7) of these Regulations;

(ii) reading paragraph 4(a) of that Schedule as though the reference to “premises”, in the first place it occurs, was a reference to “built premises”;

(b) the standard conditions contained in Schedule 2B of the 2005 Regulations.

(7) For the purposes of an approval to which paragraph (5) applies, and subject to paragraph (8), on and after the relevant date the approval in respect of religious premises is to be treated as if only the following conditions were attached—

(a) the standard conditions contained in Schedule 2A of the 2005 Regulations—

(i) as amended by regulation 3(8) of these Regulations;

(ii) reading paragraph 4(a) of that Schedule as though the reference to “premises”, in the first place it occurs, was a reference to “built premises”;

(b) the standard conditions contained in Schedule 2C of the 2005 Regulations.

(8) For the purposes of paragraph (5), any condition attached to the approval by an authority by virtue of regulation 6(1)(b) of the 2005 Regulations before the relevant date continues to apply in respect of the built premises only.

(9) In this regulation, “the relevant date” means the date on which these Regulations come into force.

29th June 2021

David Wolfson
Parliamentary Under Secretary of State
Ministry of Justice

SCHEDULE 1

Regulation 3(9)

“SCHEDULE 2B

Regulation 6(1)(a)

CONDITIONS TO BE ATTACHED TO GRANTS OF APPROVAL OF PREMISES WHICH ARE NOT RELIGIOUS PREMISES RELATING TO PROCEEDINGS HELD IN LINKED OUTDOOR AREAS

1. For the purposes of proceedings held in the linked outdoor areas, prior confirmation must be secured from the superintendent registrar of the district in which the approved premises are situated, or the authority, as the case may be, that in their opinion, having regard to the primary use, situation, construction and state of repair, the proceedings will take place in a seemly and dignified location within the linked outdoor areas.

2. The location within the linked outdoor areas at which the proceedings take place must be identifiable by description.

3.—(1) For the purposes of proceedings held within the linked outdoor areas, save as provided below, no food or drink may be sold to or permitted to be consumed by persons attending the proceedings—

- (a) when gathering for the purposes of the proceedings; or
- (b) during the proceedings.

(2) Non-alcoholic drinks may be permitted to be consumed prior to the proceedings.

4. For the purposes of proceedings held within the linked outdoor areas, a suitable notice stating—

- (a) that the premises have been approved for the proceedings;
- (b) the description of the location within the linked outdoor areas at which the proceedings are to take place; and
- (c) directions to the location within the linked outdoor areas at which the proceedings are to take place;

must be displayed at each public entrance to the premises and the built premises for one hour prior to and throughout the proceedings.”

SCHEDULE 2

Regulation 3(10)

“SCHEDULE 2C

Regulation 6(1)(aa)

CONDITIONS TO BE ATTACHED TO GRANTS OF APPROVAL OF RELIGIOUS PREMISES RELATING TO PROCEEDINGS HELD IN LINKED OUTDOOR AREAS

1. For the purposes of proceedings held in the linked outdoor areas, prior confirmation must be secured from the authority that in their opinion, having regard to the primary use, situation, construction and state of repair, the proceedings will take place in a seemly and dignified location within the linked outdoor areas.

2. The location within the linked outdoor areas at which the proceedings take place must be identifiable by description.

3.—(1) For the purposes of proceedings held within the linked outdoor areas, save as provided below, no food or drink may be sold to or permitted to be consumed by, persons attending the proceedings—

- (a) when gathering for the purposes of the proceedings; or
- (b) during the proceedings.

(2) These are the exceptions to the prohibition above—

- (a) the consumption of food or drink as a part of any religious ceremony that takes place prior to the proceedings;
- (b) the consumption of non-alcoholic drinks prior to the proceedings.

4. For the purposes of proceedings held within the linked outdoor areas, a suitable notice stating—

- (a) that the premises have been approved for the proceedings;
- (b) the description of the location within the linked outdoor areas at which the proceedings are to take place; and
- (c) directions to the location within the linked outdoor areas at which the proceedings are to take place;

must be displayed at each public entrance to the premises and the built premises for one hour prior to and throughout the proceedings.”

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Marriages and Civil Partnerships (Approved Premises) Regulations 2005 (S.I. 2005/3168) (the “2005 Regulations”), which make provision for the approval of premises for the solemnization of civil marriages and the formation of civil partnerships (“proceedings”). The amendments made by these Regulations will enable proceedings to take place in outdoor areas in the grounds of premises which have been approved under the 2005 Regulations. The amendments made by these Regulations are time limited and will expire at the end of 5th April 2022 (regulation 5).

Regulation 3(2) makes amendments to certain definitions in the 2005 Regulations. The definition of “premises” is amended to include the “built premises” together with “linked outdoor areas”. Built premises are defined as “a permanently immovable structure comprising at least a room, or any boat or other vessel which is permanently moored” and linked outdoor areas are defined as “any areas within the boundary of the land of which the built premises form part, which are not indoors and which may be used in common with the built premises”. An area is indoors if it is enclosed, or substantially enclosed. Prior to the amendments made by these Regulations, the definition of premises comprised built premises only. Amendments are made to the definitions of “religious premises” and “shared buildings” to clarify that only the built premises must meet the defining criteria. The effect of these changes is that an application for approval made under regulations 3, 3A or 3B of the 2005 Regulations (as the case may be) will be made in respect of both the built premises and linked outdoor areas, and a grant or refusal of an approval by an authority will be granted in respect of both the built premises and linked outdoor areas.

Regulation 3(3) makes amendments to regulation 5 of the 2005 Regulations. It amends the condition for approval of a religious premises by an authority such that the requirement to be a building of the type listed in regulation 5(1B) of the 2005 Regulations applies to the built premises only.

Regulation 3(4) makes amendments to regulation 6 of the 2005 Regulations. It provides that the conditions in Schedule 2B or 2C (as the case may be) must be applied to approvals in addition to the conditions in Schedule 2 or 2A (as the case may be). Regulations 3(5) and 3(6) make amendments to Schedules 1 and 1A of the 2005 Regulations respectively. They provide that the

requirements of those schedules continue to apply to the built premises only. Regulations 3(7) and 3(8) make amendments to Schedule 2 and 2A of the 2005 Regulations respectively. They clarify which aspects of those schedules apply to the built premises only.

Regulation 3(9) inserts a new Schedule 2B of standard conditions to be attached to grants of approval of premises which are not religious premises relating to proceedings held in linked outdoor areas. Regulation 3(10) inserts a new Schedule 2C of standard conditions to be attached to grants of approval of religious premises relating to proceedings held in linked outdoor areas.

Regulation 4 clarifies that nothing in these Regulations is intended to oust the faculty jurisdiction of the Church of England. Regulation 5 makes provision in relation to the expiry of these Regulations at the end of 5th April 2022. Regulation 6 contains transitional provision.

A full impact assessment has not been prepared for this instrument as it makes provision which is to have effect for a period of less than 12 months.

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