

EXPLANATORY MEMORANDUM TO
THE MARRIAGES AND CIVIL PARTNERSHIPS (APPROVED PREMISES)
(AMENDMENT) REGULATIONS 2022

2022 No. 295

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Ministry of Justice and is laid before Parliament by Command of Her Majesty.
- 1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

- 2.1 The purpose of this Statutory Instrument (SI) is to continue to give couples who wish to have a civil wedding or civil partnership ceremony greater choice and flexibility, by permitting all aspects of their ceremony to take place outdoors on approved premises. It is also to continue to enable venues that offer civil ceremonies to make greater use of their premises by offering couples the choice of either an indoor or outdoor ceremony. This instrument amends the Marriages and Civil Partnerships (Approved Premises) Regulations 2005 ('the 2005 Regulations') to permit civil marriage and civil partnership proceedings to take place outdoors, in "linked outdoor areas". Following amendments made by these Regulations, the definition of premises which may receive approval under the 2005 Regulations is "built premises together with linked outdoor areas".
- 2.2 Since 1 July 2021, couples have been able to have their civil marriage and civil partnership proceedings in the open air, in the grounds of buildings such as stately homes and hotels which are approved or become approved for these civil ceremonies. Previously, these proceedings could only take place indoors or otherwise within permanently immovable structures. These outdoor ceremonies were made possible because the Government laid a temporary statutory instrument (the Marriages and Civil Partnerships (Approved Premises) (Amendment) Regulations 2021 S.I. 2021/775) ('the Temporary Regulations') amidst the Covid-19 pandemic in order to give couples more choice and flexibility as regards setting and to support the wedding and civil partnership sector. However, the Temporary Regulations have effect only until the end of 5 April 2022.
- 2.3 At the point of laying the Temporary Regulations, the Government committed to a consultation on the policy, and to producing an impact assessment. This consultation has now been carried out, and an impact assessment has been produced. A summary of the consultation outcome, the Government's response, and the impact assessment can be found at <https://consult.justice.gov.uk/digital-communications/outdoor-marriages-civil-partnerships/>. A summary of the consultation outcome is also set out in section 10 below. There was broad support for continuation of the policy set out in the Temporary Regulations by laying a replacement SI of indefinite effect. This instrument accordingly makes provision so that these outdoor civil marriage and civil partnership proceedings can continue beyond 5 April 2022 indefinitely, thus

continuing the increased choice and flexibility. In particular, this instrument includes provision to:

- minimise administrative burdens by deeming premises that are already approved for civil ceremonies to include automatically their linked outdoor areas;
- provide that new applications (for approval or renewal), and any decisions on these, will automatically extend to linked outdoor areas. Applicant owners or trustees would need to submit plans showing the boundary of the outdoor areas as well as the built premises;
- require that outdoor locations for the ceremony will need to meet certain conditions, including that they are seemly and dignified and are identifiable by directions so that they can be easily located by the public.

2.4 This instrument differs in a small number of minor and technical respects from the Temporary Regulations, which are explained below.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 This SI is similar in content and effect to the Temporary Regulations which came into force on 1 July 2021.

3.2 Amongst the small number of changes is a change made to address the issue raised in the Joint Committee's Fourteenth Report of Session 2021-22 regarding a condition that the Temporary Regulations had placed on linked outdoor areas. Although the Committee found the Department's explanation in that regard helpful, the Government concluded that it would be appropriate to adjust the formulation of the condition better to reflect the intention.

3.3 The condition in question, found at paragraph 2 of new Schedules 2B and 2C, required that the location of the outdoor ceremony within the linked outdoor area be "identifiable by description". The intention of the condition was to enable those who wish to attend a wedding in the linked outdoor areas, including members of the public, to locate the proceedings easily, particularly where the outdoor grounds of approved premises are vast and locations could be obscure and/or unmarked.

3.4 The condition has now been re-formulated better to reflect that intention, and now requires that the location within the outdoor areas at which the proceedings take place be identifiable by directions which are capable of being stated in a notice (as provided for by paragraph 4 of each of the respective inserted Schedules, requiring such notice to state a description of the location of the proceedings) to enable the public to access the location.

4. Extent and Territorial Application

4.1 The territorial extent of this instrument is England and Wales.

4.2 The territorial application of this instrument is England and Wales.

5. European Convention on Human Rights

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

6. Legislative Context

- 6.1 The 2005 Regulations provide for the detailed procedure by which the proprietor or trustees of a venue (“the applicant”) may apply to the “authority” (the local authority or registration authority for the area in which the premises are situated) for a venue to become approved premises for the purpose of the solemnisation of civil marriages and the formation of civil partnerships. They also provide for the revocation of approval in specified circumstances and in accordance with a specified procedure. Further provision is made for a review of any decision to refuse an approval or to attach to it conditions other than standard conditions.
- 6.2 Under the 2005 Regulations prior to the amendments found in the Temporary Regulations, premises had to be permanent immovable structures. Premises which are not religious premises needed to fulfil the requirements in Schedule 1 for approval (and any other reasonable requirements which the authority considered appropriate), and on approval needed to comply with standard conditions specified in Schedule 2. Religious premises needed to fulfil the requirements in Schedule 1A for approval (and any other reasonable requirements which the authority considers appropriate), and on approval needed to comply with standard conditions specified in Schedule 2A. The authority could also attach further conditions to approvals of either religious or non-religious premises as it considers reasonable (referred to in guidance issued by the Registrar General as ‘local conditions’).
- 6.3 This framework remained in place under the Temporary Regulations, except that those Regulations deemed the premises to include their linked outdoor areas and made a number of related changes, including the addition of conditions that would attach to those outdoor areas, as explained in the Explanatory Memorandum that accompanied them.
- 6.4 Those Regulations expire on 5 April 2021, and this instrument is being made to replace them i.e. to amend the 2005 Regulations again, but now on an indefinite basis, to continue to permit civil ceremonies to take place outdoors in the grounds of premises which are approved, or which become approved. More detail is provided further below.
- 6.5 The instrument will not amend the law as it relates to the location of religious marriages because the Acts of Parliament under which the SI is made only created this flexibility regarding premises for civil marriages and civil partnerships, rather than religious marriages (which must generally take place in places of worship of the respective religions, as provided by statute). However, the Government intends to legislate to permit religious marriages to take place outdoors within the grounds of places of worship in which religious marriages must currently be held in order to provide couple seeking religious ceremonies with similar choice and flexibility as those couples seeking civil ceremonies. It intends to deliver this reform via a separate legislative reform order (‘LRO’) which would apply to all religious marriages, with the exception of Jewish and Quaker weddings, Anglican weddings on the authority of a special licence, and any other religious weddings for those who are ill and not expected to recover (for historical reasons or the exceptional circumstances of the

illness, these types of religious wedding have no legislative restrictions on the place of the marriage).

7. Policy background

What is being done and why?

The 2005 Regulations and the proposed changes

- 7.1 Prior to the changes made by the Temporary Regulations, civil marriage or civil partnership proceedings in approved premises must have taken place within a permanent immovable structure (e.g., stately homes, hotels etc) or permanently moored boat or vessel, which had been approved for proceedings. When the temporary changes were introduced last year, the Government committed to a public consultation and to producing an impact assessment ahead of laying this further instrument. The Government has now conducted that consultation and produced an impact assessment. A summary of the consultation outcome, the Government's response and the impact assessment can be found at <https://consult.justice.gov.uk/digital-communications/outdoor-marriages-civil-partnerships/>. A summary of the consultation outcome is also found at section 10 below. Following analysis of the consultation responses, the Government is laying this replacement instrument to continue the policy set out in the Temporary Regulations with a small number of minor and technical changes.
- 7.2 The overall purpose of these Regulations is to continue to permit proceedings to be held outdoors in the grounds of approved premises. Nearly three-quarters of all weddings take place on approved premises, and of these over 85% take place on approved premises such as hotels, golf-clubs and historic houses. Permitting a ceremony to take place in the outdoor areas of premises which have already been authorised to conduct weddings and civil partnership formations indoors is considered beneficial for couples and for venues, providing greater flexibility and choice.
- 7.3 At the same time, this step will continue to support the marriage sector by providing greater choice and potentially helping venues to meet demand for larger ceremonies.
- 7.4 These Regulations, like the Temporary Regulations, do not cover any other reform matters, in particular other matters to be covered by the Law Commission's forthcoming recommendations on fundamental marriage law reform. The Law Commission will present options for reforms to modernise marriage law, including how ceremonies could take place in a broader range of locations, who can solemnise a marriage, how marriage by humanist and other non-religious belief organisations could be incorporated, and how provision could be made for the use of independent celebrants. The Government will consider the case for more comprehensive and enduring reform once the Law Commission has completed its review.
- 7.5 As with the Temporary Regulations, existing approved premises will receive automatic deemed approval for use of any linked outdoor areas, subject to those areas complying with specified standard conditions relating to the location at which the proceedings are to take place.
- 7.6 This approach is intended to avoid any new administrative burden on existing approved premises venues and/or registration authorities.

- 7.7 For new premises which apply to become approved, or where the application for approval is determined after these Regulations come into force, the approval will extend to the use of both the built premises and the linked outdoor areas, subject to the built premises fulfilling the relevant requirements in Schedule 1, and the entire premises fulfilling any other reasonable requirements which the authority considers appropriate to ensure that the facilities provided at the premises are suitable. As with existing approved premises, certain standard conditions (together with such further conditions as are considered reasonable) will also be attached to the approval relating to proceedings held in the linked outdoor areas, to ensure that the dignity of proceedings is preserved and that the proceedings are accessible to the public.
- 7.8 These are permissive changes; venues are not required to offer outdoor proceedings if they do not wish to do so. It is a matter for each individual venue to decide on, and to ensure that, the requisite conditions are complied with.

Amendments to the 2005 Regulations

- 7.9 Regulation 3 of these Regulations makes amendments to the 2005 Regulations. Regulation 3(2) makes amendments to certain definitions in the 2005 Regulations to allow for the approval of indoor parts of the premises together with the outdoor areas within the bounds of the same premises. The definition of “premises” is amended to include the “built premises” together with any “linked outdoor areas”.
- 7.10 “Built premises” are defined as “a permanently immovable structure comprising at least a room, or any boat or other vessel which is permanently moored”. In a change to the Temporary Regulations, “linked outdoor areas” are now defined as “any areas within the boundary of the land of which the built premises form part, which are not built premises and which may be used in common with the built premises”. This amended definition will permit proceedings to be held in any structures (such as marquees) within the linked outdoor area, so long as they are not “permanently immovable structures”, and without any requirement that the structure have at least 50% open sides (as was required by the Temporary Regulations). This change will essentially allow greater flexibility for and shelter in outdoor structures particularly in inclement weather and provide greater clarity about permissible structures.
- 7.11 Amendments are also made to the definitions of “religious premises” and “shared buildings” to clarify that only the built premises must meet the defining criteria.
- 7.12 These changes have the following implications:
- An application for approval made under regulations 3 (application procedure: premises that are not religious premises), 3A (application procedure: religious premises) or 3B (application procedure: shared church or other buildings) of the 2005 Regulations, as the case may be, will be considered as if it was made in respect of both the built premises and any linked outdoor areas, and the grant or refusal of an approval by an authority will be granted or refused in respect of both the built premises and any linked outdoor areas;
 - For the purposes of new applications for approvals or renewal (made after these Regulations come into force), the applicant will need to provide a plan of the entire premises, indicating the boundaries of the linked outdoor areas as well as identifying any rooms within the built premises where proceedings are to take place. However, there remains no requirement for the plan to identify

specific locations within the linked outdoor areas at which proceedings will take place;

- Where required, and for the purposes of applications for new approvals or renewals of religious premises, consent from those persons specified in Schedule A1 will need to be obtained for the entire premises including the built premises and the linked outdoor areas.

Requirements for the grant of approval

- 7.13 Regulation 3(3) makes amendments to regulation 5 (grant or refusal of approval) of the 2005 Regulations. Regulation 5(1A)(b) and (1B) are amended so that the requirement that religious premises must be a particular type of building in order to be approved only applies to the built premises. Regulations 5(4) and 5(5) are amended so that if conditions other than the standard conditions (now including those in new Schedules 2B or 2C (as the case may be)) are attached to the approval, an authority must provide its reasons for doing so and notify the applicant of their right to seek a review of that decision.
- 7.14 Regulation 3(5) amends regulation 9 of the 2005 Regulations to clarify that a holder of an approval may only request a review of a decision to attach conditions other than the standard conditions (now including those in new Schedules 2B or 2C). This amendment preserves the current position that only a decision by an authority to attach 'local' conditions to the approval or renewal of an approval, pursuant to regulation 6(1)(b), may be reviewed.
- 7.15 Regulations 3(6) and 3(7) make amendments to Schedule 1 (requirements for the grant of approval of premises that are not religious premises) and Schedule 1A (requirements for the grant of approval of religious premises), respectively. The amendments preserve the current position that the standard requirements for grant of approval only apply to the built premises.

Conditions attached to approvals

- 7.16 Regulation 3(4) makes amendments to regulation 6 (conditions) of the 2005 Regulations. The amendments require that the standard conditions in new Schedule 2B (conditions to be attached to grants of approval of premises which are not religious premises relating to proceedings held in linked outdoor areas) and new Schedule 2C (conditions to be attached to grants of approval of religious premises relating to proceedings held in linked outdoor areas) are attached to approvals. The conditions in those new Schedules (inserted by regulation 3(10) and 3(11) respectively) apply to proceedings held in linked outdoor areas only and include:
- The requirement to secure prior confirmation from the superintendent registrar, the registration authority 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;
 - A requirement for the location within the linked outdoor areas at which the proceedings take place to be identifiable by directions which are capable of being stated in a notice (displayed in accordance with the standard condition in paragraph 4 of those new Schedules – see also below) to enable the public to access the location;

- Restrictions on the sale and consumption of food and alcoholic drink during and before the proceedings; and
- A requirement for a suitable notice to be displayed at the entrance to the premises and the built premises, stating: that the premises have been approved for the proceedings, the description of the location within the linked outdoor areas at which the proceedings are to take place and directions to the location within the linked outdoor areas at which the proceedings are to take place.

7.17 Regulations 3(8) and 3(9) make amendments so that the conditions in Schedule 2 (conditions to be attached to grants of approval of premises which are not religious premises) and Schedule 2A (conditions to be attached to grants of approval of religious premises) only apply to the built premises. They also make a technical clarification to Schedule 2.

7.18 In effect, no changes are made to the existing conditions that must be complied with in respect of built premises. Where a venue wishes to hold proceedings in linked outdoor areas, the responsible person must also ensure that the conditions in new Schedules 2B and 2C, as the case may be, are complied with (together with any further ‘local’ conditions that have also been attached to the approval in respect of the entire premises).

Church of England faculty jurisdiction

7.19 Regulation 4 clarifies that in relation to a church or chapel of the Church of England, nothing in these Regulations is intended to oust the faculty jurisdiction.

Transitional provisions

7.20 Regulations 5 to 9 contains transitional provision relating to applications and requests which have been submitted but not yet determined, and for approvals which have already been granted.

Applications or requests received before 1 July 2021

7.21 Regulation 5 provides that applications and requests for reviews which were submitted before 1 July 2021 but which are still in progress at the point that these Regulations come into force, have effect as if they were made under the 2005 Regulations as amended by these Regulations (subject to certain exceptions). The effect is that the applicants are not required to re-submit the application or provide a plan of the entire premises including the boundary of the linked outdoor areas, and that references to premises are to be read, as amended by these Regulations, as if they were references to “built premises”. This also means that the new definition of “linked outdoor areas” would apply to those approvals once granted, so proceedings can be held outside in structures irrespective of how open-sided or enclosed the structure is (if a structure or cover is what couples/venues wish and so long as it is not a permanent immovable structure, as explained above).

Approvals granted before 1 July 2021

7.22 Regulation 6 ensures that separate or fresh approval application, or revised plan of the entire premises including the boundary of the linked outdoor areas, will not need to be submitted, for any approvals granted before 1 July 2021. Proceedings held in the linked outdoor areas must comply with the standard conditions in Schedules 2B or 2C (as the case may be). The existing conditions that were attached to the approval will

continue to apply in respect of the built premises only. References to premises are to be read, as amended by these Regulations, as if it were a reference to “built premises”. The new definition of “linked outdoor areas” will also apply to those approvals.

Approvals granted on or after 1 July 2021 to applications made before 1 July 2021

- 7.23 Regulation 7 provides that approvals granted on or after 1 July 2021 in respect of applications made prior to that date have effect as if they were granted under the 2005 Regulations as amended by these Regulations. In line with regulation 5, which relates to applications made before 1 July 2021, references to premises are to be read, as amended by these Regulations, as if they were references to “built premises” in respect of the condition in Schedules 2 and 2A to notify an authority if the layout of the premises (as shown in the submitted plan) changes.

Applications or requests received on or after 1 July 2021

- 7.24 Regulation 8 provides that applications and requests for reviews which were submitted on or after 1 July 2021 but not yet determined or withdrawn when these Regulations come into force have effect as if they were made under the 2005 Regulations as amended by these Regulations. This means that the new definition of “linked outdoor areas” would apply to any approval granted, so proceedings can be held outside in structures irrespective of how open-sided or enclosed the structure is (if a structure or cover is what couples/venues wish, and so long as it is not a permanent immovable structure, as explained above).

Approvals granted to applications made on or after 1 July 2021

- 7.25 Regulations 9(1) and (2) provide that approvals granted since the Temporary Regulations came into force now have effect as if they were granted under the 2005 Regulations as amended by these Regulations. This means that the new definition of “linked outdoor areas” applies. Conditions that were attached to the approval which relate to the linked outdoor areas, including the standard conditions in Schedules 2B or 2C (as the case may be) and any ‘local’ conditions considered reasonable and attached pursuant to regulation 6(1)(b) of the 2005 Regulations will continue to apply. Regulation 9(3) ensures that any revocation action that had been commenced or intended by an authority or the Registrar General prior to these Regulations taking effect will continue.

8. European Union Withdrawal and Future Relationship

- 8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

- 9.1 This instrument replaces the amendments to the 2005 Regulations that were made by the Temporary Regulations and is not time limited. The Government committed to consult on the provision of outdoor ceremonies in Autumn 2021 with the intention of laying this further instrument in Spring 2022. As explained above, the Government has now carried out this consultation and produced an impact assessment, which can be found at <https://consult.justice.gov.uk/digital-communications/outdoor-marriages-civil-partnerships/>.

- 9.2 In considering whether to make the Temporary Regulations permanent (with such modifications as may be necessary) the Government considered whether it would be helpful to consolidate those measures with earlier amendments to the 2005 Regulations so that the regulations were easier for businesses and registration services to navigate and apply. However, given the expected release of the Law Commission’s recommendations in July 2022, relating to its fundamental review of marriage law, consolidation will not be undertaken at this time.

10. Consultation outcome

- 10.1 The Outdoor Marriages and Civil Partnerships consultation ran from 20 December 2021 to 24 January 2022. It received 204 individual responses from owners, trustees and other representatives of approved premises or prospective approved premises; representatives of authorities responsible for approvals of premises and for compliance with conditions that attach to approvals; representatives of marriage and civil partnership registration services sitting in local authorities; religious groups or bodies; owners or trustees of places of worship registered for solemnising marriages; authorised persons appointed under the Marriage Act 1949; celebrants; other individuals, companies or bodies involved in the wedding and civil partnership sector; couples who have had or are planning outdoor weddings/civil partnerships in England and Wales; and other people affected or potentially affected by this proposal. It also received 612 responses from those identifying as humanists (606 of which were template responses).
- 10.2 96.15% of respondents, including those with humanist beliefs, believed that the temporary provision for outdoor marriages and civil partnerships within the grounds of approved premises should continue beyond 5 April 2022.
- 10.3 The majority of venue respondents said that additional costs linked to outdoor ceremonies were minimal and tended to include the costs of outdoor seating and sound systems. Around 75% of respondents said these additional costs would be worthwhile as they would make their venues more attractive to couples.
- 10.4 Multiple venues and representatives of registration services highlighted an issue they had faced as a result of the definition of “indoors” used in the Temporary Regulations. That definition resulted in structures, such as a tent or marquee, being considered to be indoors (and therefore part of the built premises) if it was more than 50% enclosed. In other words, these structures could only be used for ‘outdoor’ proceedings when the side flaps were rolled up (since that would result in the sides being open by more than 50%), but not if they were rolled down (as was desired in case of bad weather).
- 10.5 To address respondents’ concerns around the use of enclosed marquees, the definition of “linked outdoor areas” in these Regulations has been amended as explained above, so that the requirement for an outdoors structure to have a certain percentage of openness has been removed.
- 10.6 The rest of these Regulations will remain essentially the same as the Temporary Regulations, save as already specified above.
- 10.7 The full consultation response is available at <https://consult.justice.gov.uk/digital-communications/outdoor-marriages-civil-partnerships/>.

11. Guidance

- 11.1 [The Registrar General’s guidance for the approval of premises as venues for civil marriages and civil partnerships](#) (‘the RG Guidance’), issued by the Registrar General under regulation 11 of the 2005 Regulations, is available online at gov.uk. It has been reviewed and updated to ensure it reflects the measures within this SI. The RG Guidance provides an accessible and comprehensive overview of the requirements for Approved Premises and for how civil marriage and civil partnership proceedings can legally take place.
- 11.2 Additional guidance in the form of a Frequently Asked Questions (FAQ) document has been produced and will support registrars, Approved Premises venues and their staff, to understand and apply these Regulations. Content on gov.uk has also been updated to provide guidance to couples who are considering having an outdoor ceremony on Approved Premises.

12. Impact

- 12.1 There is no, or no significant, impact on business, charities or voluntary bodies.
- 12.2 There is no, or no significant, impact on the public sector.
- 12.3 A full Impact Assessment is submitted with this memorandum and published alongside the Explanatory Memorandum on the legislation.gov.uk website.

13. Regulating small business

- 13.1 The legislation applies to activities that are undertaken by small businesses including small and micro businesses as well as by larger ones.
- 13.2 To minimise the impact of the requirements on small businesses (employing up to 50 people), the approach taken in the instrument is for this to be a permissive power which allows but does not require approved premises to offer and facilitate outdoor ceremonies if they do not wish to do so. In addition, to minimise burdens, use of the linked outdoor areas will automatically be deemed as being able to be used by existing approved premises. Existing approved premises will not be required to make an additional application to the local authority or local registration service, or to submit updated plans of the premises to include the boundaries of the linked outdoor areas.
- 13.3 The basis for the final decision will be informed by a full Impact Assessment which has been completed based on public consultation.

14. Monitoring & review

- 14.1 The instrument does not include a statutory review clause. It will be reconsidered as part of broader Government reforms following the recommendations presented by the Law Commission, which the Government is due to receive in July 2022.

15. Contact

- 15.1 Sabrina Bailey, Head of Marriage and Divorce Policy at the Ministry of Justice. Email: sabrina.bailey1@justice.gov.uk, with any queries regarding this instrument.
- 15.2 Neal Barcoe, Deputy Director for Family Justice at the Ministry of Justice can confirm that this Explanatory Memorandum meets the required standard.

15.3 Tom Pursglove MP, Parliamentary Under Secretary of State at the Ministry of Justice can confirm that this Explanatory Memorandum meets the required standard.