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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the [Marriages and Civil Partnerships \(Approved Premises\) Regulations 2005 \(S.I. 2005/3168\)](#) (“2005 Regulations”) so as to enable the approval of religious premises as a place where the formation of civil partnerships may take place. The 2005 Regulations make provision for the approval of premises for civil marriages and the formation of civil partnerships. Religious premises (as defined in section 6A of the Civil Partnership Act 2004 (c. 33)) could not previously be approved for the formation of civil partnerships and they may not be approved, by virtue of the 2005 Regulations, for civil marriages. The prohibition in respect of civil partnerships (in England and Wales) has been lifted by section 202 of the Equality Act 2010 (c. 15).

The amendments to the 2005 Regulations are made by regulation 2. Many of the amendments are consequential but notable changes are explained below.

Regulation 2(3) inserts new regulations 2A to 2D. New regulation 2A clarifies that the 2005 Regulations are not intended to oust the faculty jurisdiction of the Church of England. New regulation 2B clarifies that the 2005 Regulations do not oblige a trustee or proprietor of religious premises to make an application for approval (and see also section 6A(3A) of the Civil Partnership Act 2004). New regulation 2C sets out the kinds of premises that may be approved for civil marriage and for the formation of civil partnerships. Premises that are not religious premises may be approved for both. Premises that are religious premises may be approved only for civil partnerships. An application for approval of religious premises may only be made if the appropriate governing authority of the denomination concerned has consented to it being made. New regulation 2D sets out how applicants – who will be the trustees or proprietors of premises - may demonstrate that they have this consent, referred to in the regulations as the “required consent”. Premises that are of a description specified in the table in Schedule A1 to the 2005 Regulations (inserted by Schedule 1 to these Regulations) must obtain the consent of the person or body specified in the table (unless consent is not required, in which case this will be indicated). Premises not of a description specified must obtain the consent of the governing authority of the religious organisation for whose religious purposes the premises are used. Where consent is not required (because the specified body or governing authority has determined that it’s not) then the application will need to include a signed statement to this effect.

Regulation 2(5) inserts new regulations 3A and 3B. New regulation 3A sets out how applications for approval of religious premises are to be made. It mirrors the existing application procedure for premises that are not religious premises set out in regulation 3 of the 2005 Regulations except that applicants must also include the required consent and the application must satisfy the standard requirements in Schedule 1A to the 2005 Regulations (inserted by Schedule 2 to these Regulations) rather than Schedule 1 to the 2005 Regulations. Once an application is received an authority must arrange for the premises to be inspected. But in relation to religious premises an authority may decide not to inspect premises if it considers that this is not necessary (new regulation 3A(5)). This may be, for example, because marriages are solemnized on those premises in accordance with the Marriage Act 1949 (c. 76).

New regulation 3B makes provision for religious premises that are shared under the Sharing of Church Buildings Act 1969 (c. 38) (“1969 Act”). This Act makes provision for the Churches to which it applies to enter into sharing arrangements in respect of church buildings and, less formally, for the shared use of chapels located in public institutions such as hospitals and universities. By virtue of amendments made to regulation 2 of the 2005 Regulations (interpretation) by regulation 2 of these Regulations the latter are referred to as “shared buildings”. Whilst an application made in respect

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of religious premises shared under the 1969 Act will still be made by a trustee or proprietor of the premises, it will need to include the required consent of all the Churches that share the premises. If the premises are approved, that approval will remain in force if a sharing Church withdraws from the sharing agreement or no longer uses a shared building (new regulation 7(2A) of the 2005 Regulations as inserted by regulation 2(9)(b) of these Regulations).

Regulation 2(7) of these Regulations amends regulation 5 of the 2005 Regulations (grant or refusal of approval). In particular it inserts new paragraphs (1A) to (1C). Only the types of religious premises specified in new paragraph (1B) may be approved. When approval is granted the authority must impose the conditions which are set out in new Schedule 2A of the 2005 Regulations (as inserted by Schedule 3 of these Regulations) (and see further below).

Regulation 8 of the 2005 Regulations makes provision for the revocation of approvals and that regulation will apply to religious premises that have been approved. However, regulation 2(11) of these Regulations inserts a new regulation 8A which concerns revocation of approvals of religious premises only. This makes provision for the revocation of approval where the required consent is withdrawn or where consent will henceforth be required (where it was not before). In these circumstances, and unless consent is provided, the authority must revoke the approval. The revocation will take effect on the day following that on which the authority received the notification or the day on which the consent will be withdrawn or required, whichever is later. The standard conditions contained in Schedule 2A and referred to above require the holder of an approval to notify an authority if consent is being withdrawn or will be required (paragraphs 7 and 8).

Regulation 2(16) (and Schedule 2) inserts the new Schedule 1A (referred above) to the 2005 Regulations. Schedule 1 to the 2005 Regulations sets out the requirements that must be satisfied before an application for approval of premises that are not religious premises is granted. Schedule 1A will set out the requirements that must be satisfied in relation to religious premises. In particular the requirement that premises are regularly available to the public for the formation of civil partnerships will apply subject to the application of paragraph 2 of Schedule 23 to the Equality Act 2010 (c. 15) (which provides an exception from the prohibition of discrimination to permit certain religion or belief based organisations in relation to certain activities to discriminate because of religion or belief or sexual orientation).

Regulation 2(18) (and Schedule 3), inserts a new Schedule 2A. This sets out the conditions that an authority must attach to an approval of religious premises. These largely mirror those that are attached to approvals of other premises (and contained in Schedule 2 to the 2005 Regulations) but with a number of notable exceptions: section 2(5) of the 2004 Act prohibits any religious service taking place whilst the civil partnership registrar is officiating at the formation. By virtue of Schedule 2 to the 2005 Regulations the civil partnership formation may not be religious in nature and for these purposes this includes any introduction to, interval or conclusion to those proceedings. In relation to religious premises this prohibition applies only during the proceedings themselves (paragraph 15 of Schedule 2A). Similarly the consumption of food and drink will be permitted prior to the formation in so far as it forms part of a religious ceremony taking place beforehand (for example Holy Communion) (paragraph 11 of Schedule 2A). There are also some additional conditions, in particular: the requirement to inform the authority if consent has been or will be withdrawn or required; and the requirement to inform the authority if the premises cease to be religious premises of a type described in new regulation 5(1B).

Finally three changes are made to the scheme more generally. First, regulation 2(6) of these Regulations substitutes new paragraphs (1) and (1A) for paragraph (1) of regulation 4 of the 2005 Regulations. Applications may now be advertised either in a local newspaper or on the authority's website (previously it was in a local newspaper only). Second, regulation 2(9) amends regulation 7(1) of the 2005 Regulations such that now approvals will be granted for such period, being not less than three years, as the authority determines. Previously approvals could only be granted for a period of three years. Third, the prohibition on the consumption of food and drink in the same room as the proceedings take place during the proceedings and for one hour before has been relaxed. Regulation

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2(17) amends paragraph 7 of Schedule 2 to the 2005 Regulations (and the equivalent provision in respect of religious premises is contained in paragraph 11 of new Schedule 2A) so as to permit non-alcoholic drinks to be consumed in the same room as the proceedings take place prior to (but not during) those proceedings.

A full impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is available on the Home Office website (published together with the government's response to the consultation on civil partnerships on religious premises) [www.homeoffice.gov.uk](http://www.homeoffice.gov.uk). It is also published with the Explanatory Memorandum alongside the instrument on [www.legislation.gov.uk](http://www.legislation.gov.uk).