EXPLANATORY MEMORANDUM TO

THE MARRIAGES AND CIVIL PARTNERSHIPS (APPROVED PREMISES) (AMENDMENT) REGULATIONS 2013

2013 No. 2294

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

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

2.1 These Regulations make two amendments to the Marriages and Civil Partnerships (Approved Premises) Regulations 2005 (S.I. 2005/3168) ("the 2005 Regulations"). These amendments are: the correction of a drafting error (use of the word "fully" instead of "finally"); and the addition of the United Reformed Church to the table of persons who must consent to an application for religious premises to be approved as places where civil partnerships may take place.

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

3.1 The drafting error in the Marriage and Civil Partnerships (Amendment) Regulations 2011 (S.I. 2011/2661) ("the 2011 Regulations") was identified by the Joint Committee on Statutory Instruments in its 37th Report of Session 2010-2012.

4. Legislative Context

4.1 Section 202 of the Equality Act 2010 amended the Civil Partnership Act 2004 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.

4.2 The 2005 Regulations set out the process by which premises are approved by local authorities as places where civil marriage ceremonies and civil partnership registrations may take place. The 2005 Regulations were amended in 2011 to enable religious premises to be approved for civil partnerships (but not civil marriage ceremonies), and a new Schedule A1 was introduced which lists the persons who must consent to an application for approval of certain types of religious premises.

4.3 There was an error in the drafting of the 2011 Regulations which referred to applications being "fully" instead of "finally" determined. The latter wording was used in the 2005 Regulations prior to their amendment and should have been maintained.

4.4 The table at Schedule A1 of the 2005 Regulations is amended to add the United Reformed Church.

5. Territorial Extent and Application

5.1 This instrument applies to England and Wales.

6. European Convention on Human Rights

6.1 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 ceremonies and civil marriage ceremonies. 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.

7.2 Section 202 of the Equality Act 2010 amended the Civil Partnership Act 2004 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. A local authority may not approve religious premises unless it has received the appropriate consents from the governing authority of the religious organisation(s) in question. Schedule A1 of the 2005 Regulations was introduced in 2011 and lists the persons who must consent to an application for approval of certain types of religious premises.

7.3 If an application is received from a religious organisation not specified in Schedule A1, the applicant must obtain the consent of the governing authority of the religious organisation for whose religious purposes the premises are used. Where the specified body or governing authority has decided that consent is not required, the application must include a signed statement to this effect.

7.4 The consultation on civil partnerships on religious premises published in March 2011 asked religious organisations if they wanted to be individually named in the 2005 Regulations. If so, they were requested to provide details of the person or body to be appropriately specified in Schedule A1. The governing body of the United Reformed Church confirmed that they did wish to be specified in Schedule A1. However, they were omitted due to an administrative oversight. An undertaking was given to include them when the 2005 Regulations were next revised.

7.5 The Marriage (Same Sex Couples) Act 2013 (“the 2013 Act”) extends marriage to same sex couples in England and Wales, whilst protecting and promoting religious freedom. The arrangements set out in these Regulations do not relate to the 2013 Act.

The Government will bring forward separate orders and regulations as part of the implementation of the 2013 Act.

Consolidation

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

8. Consultation outcome

8.1 No separate consultation exercise was carried out as this instrument makes minor amendments and does not change the policy. The consultation exercise conducted when preparing the 2005 Regulations and the Government response can be viewed on the Government Equalities Office pages of the Government's website at: https://www.gov.uk/government/speeches/consultation-on-the-arrangements-for-enabling-civil-partnerships-to-be-registered-on-religious-premises-of-faith-groups-who-wish-to-host-them-wms.

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 religious organisations setting out the amendments made by these Regulations.

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.

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.

13. Contact

13.1 Stephen Hunt at Her Majesty's Passport Office (tel. 0151 471 4578 or e-mail: stephen.hunt@hmpo.gsi.gov.uk) can answer any queries regarding the instrument.