EXPLANATORY MEMORANDUM TO

THE SHAM MARRIAGE AND CIVIL PARTNERSHIP (REFERRAL OF PROPOSED MARRIAGES AND CIVIL PARTNERSHIPS) (AMENDMENT) REGULATIONS 2026

2026 No. 85

1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Home Office and is laid before Parliament by Command of His Majesty.

2. Declaration

2.1 Alex Norris, Minister for Border Security and Asylum at the Home Office confirms that this Explanatory Memorandum meets the required standard.

2.2 Matthew Bligh, Deputy Director for the Appeals Reform and Criminality Unit at the Home Office confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Any enquiries relating to the instrument should be directed to Caroline Pick, Policy Advisor for the Migrant Criminality Policy Team at the Home Office by email at: CriminalityPolicyGuidanceQueries@homeoffice.gov.uk.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 This instrument ensures that the digital immigration status of those who are exempt from immigration control will be accepted as specified evidence of being an exempt person, when giving notice of intention to marry or register a civil partnership in England and Wales or in Scotland or Northern Ireland (respectively).

Where does the legislation extend to, and apply?

4.2 The extent of this instrument (that is, the jurisdictions which the instrument forms part of the law of) is in England and Wales, Scotland and Northern Ireland (respectively).

4.3 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England and Wales, Scotland and Northern Ireland (respectively).

5. Policy Context

What is being done and why?

5.1 Part 4 of the Immigration Act 2014, which introduced the sham marriage referral and investigation scheme, requires that all proposed marriages or civil partnerships where one or both parties are not an 'exempt person' under section 49 of the Immigration Act 2014, are referred to the Secretary of State. Exempt persons include (among others) those who provide specified evidence confirming that they are exempt from immigration control.

5.2 The wider Home Office move to replace physical immigration documents with digital immigration status will mean that physical vignettes that confirm an exemption from immigration control will start to be replaced by digital status from February 2026. This will mean that from February 2026, there will be some individuals who are exempt from control who will only ever have a digital status, as they will not be issued physical evidence.

5.3 This instrument will ensure that those who are exempt from control can present a digital form of status as specified evidence of being an exempt person during their marriage or civil partnership preliminaries. This will be done by updating the list of specified evidence acceptable to registration officials and will ensure that these people are not disadvantaged by the Home Office decision to move away from physical documents confirming immigration status, such as vignettes.

5.4 Although physical evidence will remain acceptable, without this change, those who have only a digital confirmation of being exempt from control will have to be automatically referred by the registration services to the Home Office under the marriage and civil partnership referral and investigation scheme, following their appointment to give notice to marry or register a civil partnership.

What was the previous policy, how is this different?

5.5 There was no previous policy for provision of digital status for those who are exempt from control during UK marriage and civil partnership preliminaries, as this type of digital status was not previously available. The current list of acceptable specified evidence for this group is limited to physical evidence, such as passports, vignettes and letters.[1]

5.6 This amendment, which is not a policy change, gives effect to Home Office policy in respect of digital evidence of immigration status for people exempt from immigration control.

6. Legislative and Legal Context

How has the law changed?

6.1 This instrument ensures that those who are exempt from control can present a digital form of status as specified evidence of being an exempt person during their marriage or civil partnership preliminaries. This will be done by amending the lists of specified evidence found at Schedule 1 to the Referral of Proposed Marriages and Civil Partnerships Regulations 2015 (S.I. 2015/123), and Schedule 1 to the Sham Marriage and Civil Partnership (Scotland and Northern Ireland) (Administrative) Regulations 2015 (S.I. 2015/404).

6.2 This instrument is required due to the Home Office introducing digital immigration status for those who are exempt from control. Previously only physical (non-digital) status was available for this group.

Why was this approach taken to change the law?

6.3 This is the only possible approach to make the necessary changes.

[1] https://www.legislation.gov.uk/uksi/2015/404/schedule/1/made

7. Consultation

Summary of consultation outcome and methodology

7.1 The powers to change the regulations are reserved to the Secretary of State, subject to a duty of consultation with the Registrar General in England and Wales, Scotland and Northern Ireland. This consultation process was started in early September 2025, when a summary of the issue and proposed amendments were circulated by email to each Registrar General. Full support of these proposals was received from each Registrar General by the end of October 2025. No other external consultation was undertaken. There is also no relevant published guidance that would require amending. We do not foresee issues or controversial debate from this proposed change, which is purely functional in nature. Similarly, no significant, impact on the private, voluntary or public sector is foreseen.

8. Applicable Guidance

8.1 This instrument does not implement or require new guidance. There is also no relevant published guidance that would require amending. The proposed change will be communicated to each registration service in advance of commencement, allowing internal registrar manuals and declaration notice templates to be updated to reflect this minor technical change, where applicable. The anticipated impact from this change is therefore very low.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this instrument because no significant, impact on the private, voluntary or public sector is foreseen from such a minor technical amendment.

Impact on businesses, charities and voluntary bodies

9.2 There is no, or no significant, impact on business, charities or voluntary bodies because this such a minor and technical amendment.

9.3 The legislation does not impact small or micro businesses.

9.4 There is no, or no significant, impact on the public sector because this such a minor and technical amendment.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The instrument does not include a statutory review clause.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 None.

12. European Convention on Human Rights

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

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").