

CIVIL PARTNERSHIP ACT 2004

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 7 – Miscellaneous

Section 249: Immigration control and formation of civil partnerships

482. This section introduces Schedule 23, which contains provisions relating to the formation of civil partnerships in the United Kingdom by persons subject to immigration control.

Section 250: Gender Recognition where applicant a civil partner

483. This section amends the Gender Recognition Act 2004 to ensure that anyone who applies for recognition of his or her acquired gender under the Gender Recognition Act who is in a civil partnership is treated in the same way as someone who is married, and to make additional consequential amendments to that Act.
484. Initially, an applicant for gender recognition who is a civil partner will only receive an interim gender recognition certificate. If an interim gender recognition certificate has been issued the civil partnership is voidable under section 50(1)(d) in England and Wales or section 174(1)(d) in Northern Ireland and it may be annulled under section 37 or 161. In Scotland the civil partnership may be dissolved under section 117(2)(b). New section 5A of the Gender Recognition Act provides that a court which makes final a nullity order (or in Scotland grant a decree of dissolution) on this ground must, on doing so, issue a full gender recognition certificate. If an interim gender recognition certificate has been issued to a person and his civil partnership comes to an end in any other way, the applicant may apply to the Gender Recognition Panel for a full gender recognition certificate within certain time limits, showing that the civil partnership has ended and that the applicant has not subsequently formed a new civil partnership or married.

Section 251: Discrimination against civil partners in employment field

485. This section amends the Sex Discrimination Act 1975 (SDA) to extend the prohibition of discrimination against married persons to cover civil partners. Section 3 of the SDA explains the meaning of discrimination for the purposes of Part 2 of that Act, which contains a range of provisions prohibiting discrimination in the field of employment. . The section also amends the exception in section 7(2)(h) of the SDA (genuine occupational qualification where job is one of two to be held by a married couple) to include civil partners. Other amendments to the SDA are consequential.

Section 252: Discrimination against civil partners in employment field: Northern Ireland

486. This section amends the [Sex Discrimination \(Northern Ireland\) Order 1976 \(SI 1976/1042 \(N.I. 15\)\)](#) and makes provision corresponding to section 251.

Section 253: Civil partners to have an unlimited insurable interest in each other

487. This section provides that two people who are civil partners will be presumed for the purposes of section 1 of the Life Assurance Act 1774 to have an interest in each other's lives and that that interest shall be unlimited.

Section 254: Social security, child support and tax credits

488. This section introduces Schedule 24, which makes amendments to legislation governing social security, child support and tax credits. In general, civil partners will be treated in the same way as spouses and people living together as if they were civil partners will be treated in the same way as people living together as husband and wife.
489. *Subsections (2) and (3)* extend the general power to make further provision in connection with civil partnership which is contained in section 259. Legislation which relates to social security, child support or tax credits, and which refers to persons living together as husband and wife, may be amended so as to refer to persons who are living together as if they were civil partners. Although some amendments of this nature could be made under section 259, it was thought that there might be some borderline situations where the power in that section would not be wide enough to do this.
490. *Subsection (4)* provides that, in the same way that section 175(3), (5) and (6) of the Social Security Contributions and Benefits Act 1992 apply to the exercise of the order-making powers under that Act, those sections shall also apply to the exercise of the section 259 power in relation to social security, child support or tax credits. Subsection (3), (5), and (6) clarify, amongst other things, the cases in which the power may be used, the fact that the power may make different provision for different areas etc. There are some exceptions in section 175(3) and (5) but these are not to be taken into account in relation to the exercise of the section 259 power.
491. *Subsection (5)* makes provision for Northern Ireland that corresponds to the provision made by subsection (4) for England and Wales.

Section 255: Power to amend enactments relating to pensions

492. This section confers a power to amend various kinds of legislation relating to pensions, allowances or gratuities for the purpose of (or in connection with) making provision with respect to pensions, allowances or gratuities for surviving civil partners or dependants of deceased civil partners. All orders made under the power will be subject to the affirmative resolution procedure: *subsection (10)*.
493. The power will be used to require contracted-out defined benefit pension schemes to take account of periods of pensionable service from April 1988. Contracted-out defined contribution schemes would be required to provide survivor benefits from the protected rights accrued from April 1988, if the member is in a civil partnership at the point of retirement. Contracted-out schemes are already required to make provision for survivor benefits for legal spouses.
494. In the context of judicial pensions, allowances or gratuities, this power will be used to amend the Judicial Pensions Act 1981 and the Judicial Pensions and Retirement Act 1993 and associated subordinate legislation in order to make the judicial pensions regime consistent with the Civil Partnership Act. The 1981 Act and the 1993 Act (together with subordinate legislation) make provision for the survivors (children and spouses) of judicial officers who die while in service or after retirement.
495. Specific references to "spouse" or to "marriage" need to be extended to refer in addition to "civil partners" and to "civil partnership". Similarly, references to children will be amended to include children of a civil partnership. Where appropriate, provisions will be extended to other relationships (e.g. step children) created as a consequence of the formation of a civil partnership in the same way as the benefits created by marriage.