

## **Executive Note**

### **The Civil Partnership (Supplementary Provisions relating to the Recognition of Overseas Dissolutions, Annulments or Separations) (Scotland) Regulations 2005 S.S.I. 2005/567**

The above instrument was made in exercise of the powers conferred by section 237(2) of the Civil Partnership Act 2004 (“the 2004 Act”). The instrument is subject to negative resolution procedure.

#### **Policy Objectives**

The purpose of the instrument is to make provision additional to that made in sections 234 to 237 of the 2004 Act for the recognition in Scotland of dissolutions and annulments of civil partnerships and separations of civil partners obtained abroad.

Firstly, the instrument contains special rules for the situation where an overseas dissolution, annulment or separation is obtained in a territory within a multi-unit state, whose different units have different laws in this area. The 2004 Act requires to be applied with appropriate modifications in this situation, as the rules in the body of the Act itself only adequately cover unitary states. It was recognised at the time that further and more complex provisions would be needed for multi-unit states, and an express power to make such provision was taken in section 237(2)(a).

Secondly, the instrument contains special rules which apply where at least one party is domiciled or habitually resident in a country whose law does not recognise relationships between people of the same sex, and provides no facility for civil partnership proceedings to be taken there. The special rules in the instrument provide for more generous recognition of overseas dissolutions, annulments or separations in this context, bearing in mind the fact that it is not feasible to expect a dissolution, annulment or separation to be obtained in a country which provides no mechanisms for doing so, and therefore it is less likely that these can be obtained in a forum with which the parties have a strong connection.

Finally, the instrument contains special rules on recognition of overseas dissolutions, annulments and separations where there have been cross-proceedings, makes provision for the situation where a recognised overseas separation is converted into a dissolution in the country in which it was obtained, and provides for findings of fact in the overseas proceedings to receive appropriate weight in the context of recognition in Scotland.

#### **Financial Effects**

The instrument has no financial effects on the Scottish Executive, local government or on business.