

**EXPLANATORY MEMORANDUM TO
THE IMMIGRATION (PROCEDURE FOR FORMATION OF CIVIL
PARTNERSHIPS) REGULATIONS 2005**

2005 No. 2917

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

2. Description

2.1 These Regulations make provision in relation to the additional procedures to be followed where a civil partnership is to be formed in the United Kingdom and a party to the proposed civil partnership is subject to immigration control.

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

3.1 None.

4. Legislative Background

4.1 Schedule 23 to the Civil Partnership Act 2004 sets out additional procedures which must be followed where a party to a proposed civil partnership which is to be formed in the United Kingdom is subject to immigration control. These Regulations make provision in relation to those procedures. This is the first use of the Schedule 23 powers.

4.2 Schedule 23 provides that, where a party is subject to immigration control, notice of the proposed civil partnership must be given at a specified registration authority (or Scottish or Northern Irish equivalent). Further, notice must not be accepted unless the person subject to immigration control either (a) has an entry clearance granted expressly for the purpose of enabling him to form a civil partnership in the United Kingdom, (b) has the written permission of the Secretary of State to form a civil partnership in the United Kingdom, or (c) falls within a class specified in regulations.

4.3 These regulations:

- specify registration authorities etc for these purposes,
- make provision for applications for the written permission of the Secretary of State to form a civil partnership in the United Kingdom (a certificate of approval). The regulations specify the information to be provided with such applications and set the fee at £135. The fee has been determined on a cost recovery basis in accordance with Treasury guidelines; and
- specify persons who are exempt from the requirement to have a civil partner entry clearance or a certificate of approval. Exempt persons are those who are settled in the United Kingdom and those to whom Schedule 3 of the Civil Partnership Act 2004 applies (registration by former spouses one of whom has changed sex).

4.4 Regulations 1 to 3 and Schedule 1 will come into force on 14th November. This will enable persons who are subject to immigration control to make an advance application for a certificate of approval, so that (if granted) they will be able to give notice as soon as possible after the substantive commencement of the Civil Partnership Act on 5th December 2005. The remainder of these Regulations will come into force on that date.

5. Extent

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

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

7. Policy background

7.1 The purpose of the Civil Partnership Act 2004 is to enable same-sex couples to obtain legal recognition of their relationship by forming a civil partnership. Civil partners will be subject to many of the same legal rights and responsibilities as spouses. The purpose of these regulations is to prevent abuse of the immigration rules by people entering into sham civil partnerships. Similar provision is already made in relation to marriages which take place in the United Kingdom.

7.2 Preventing sham civil partnerships (and sham marriages) from taking place in the UK has real political importance. The ability to maintain an effective immigration control is crucial in promoting community cohesion and good relations between people of different nationalities and ethnic groups within the UK. Arrangements under which people are able, or are perceived to be able, to circumvent the Immigration Rules create mistrust and foster resentment between different groups.

7.3 The regulations specify the registration districts in England and Wales at which persons subject to immigration control may give notice of a civil partnership. The restricted number of locations will enable the Immigration Service to target their intelligence and enforcement effort in order to tackle abuse of the immigration system via sham civil partnerships in England and Wales. In the context of marriage, there is less evidence of abuse in Scotland and Northern Ireland, therefore notice may be given at any registration district. However, if there is evidence that the problem has been displaced to Scotland or Northern Ireland (or that a problem arises there in the civil partnership context) then we will move swiftly to designate a reduced number of registration offices for giving notice both of marriage and of civil partnership.

7.4 Consultation has taken place between the following bodies:

ONS (The Registrar General for England and Wales)
Home Office
Department for Constitutional Affairs
Department for Trade and Industry
UK Visas
Foreign and Commonwealth Office

The Registrar General for Scotland
The Registrar General for Northern Ireland
LACORS

7.5 All parties have been supportive of the provisions and the specified registration authorities in England and Wales were identified after having worked closely with the Office of National Statistics and LACORS (Local Authority Co-ordinators of Regulatory Services) when designating Register Offices for giving notice of marriage in the Immigration (Procedures for Marriage) Regulations 2005. We have also established a joint working group with registrars which meets on a roughly bimonthly basis to discuss the provisions and progress on implementation.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

8.2 The impact on the public sector will be minimal. The restriction on register offices in England and Wales will mean a reduction in the number of notices that could have been taken at the register offices that are not designated.

9. Contact

9.1 Queries should be addressed to the Home Office's Immigration and Nationality Enquiry Bureau on telephone 0870 6067766 or by e-mail: indpublicenquiries@ind.homeoffice.gsi.gov.uk.