

**EXPLANATORY MEMORANDUM TO THE
CIVIL PARTNERSHIP (HOUSE OF COMMONS MEMBERS' FUND) ORDER 2005**

2005 No.

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

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

2. **Description**

- 2.1 The Order amends the House of Commons Members' Fund Act 1939 to extend the range of potential beneficiaries of the House of Commons Members' Fund ("the Fund"), so as to include surviving civil partners of persons who have been Members of the House of Commons.

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

None.

4. **Legislative Background**

- 4.1 The Order is made in exercise of powers conferred by section 255 of the Civil Partnership Act 2004 ("the Act"). The Act amended the House of Commons Members' Fund Act 1948 to give the Trustees of the Fund power to make payments to surviving civil partners of persons who have been Members of the House of Commons, having regard to their circumstances. However, an amendment to the House of Commons Members' Fund Act 1939, which provides an overall definition of the categories of potential beneficiaries of payments from the Fund, was omitted in error. This Order corrects that omission and will ensure that the Trustees have the power to make payments to surviving civil partners under the House of Commons Members' Fund Act 1948 as originally intended.

5. **Extent**

- 5.1 This Order applies to all of the United Kingdom.

6. **European Convention on Human Rights**

- 6.1 The Leader of the House of Commons, Geoffrey Hoon, has made the following statement regarding Human Rights:

In my view the provisions of The Civil Partnership (House of Commons Members' Fund) Order 2005 are compatible with the Convention rights.

7. Policy background

7.1 The Act received Royal Assent on 18 November 2004. The purpose of the Act is to enable same-sex couples to obtain legal recognition of their relationship by forming a civil partnership. The Act also contains provisions enabling certain overseas same-sex relationships to be treated as civil partnerships. Civil partners will be subject to many of the same legal rights and responsibilities as spouses.

7.2 Two people may register as civil partners of each other provided:

- they are of the same sex;
- neither of them is already a civil partner or married;
- they are not within the prohibited degrees of relationship;
- they are both over the age of sixteen (and the consent of the appropriate persons has been obtained if either of the parties are under eighteen).

7.3 The Government held a three-month public consultation on the proposal to create a same-sex civil partnership registration scheme in England and Wales. This ran from 30 June 2003 to 30 September 2003 and generated substantial public and media interest. There were 3,617 responses to the public consultation of which 83 per cent expressed support for the principle of civil partnership.

7.4 The Government's response to the consultation was published in November 2003 and can be found on the DTI's website at:
<http://www.womenandequalityunit.gov.uk/lgbt/partnership.htm>

7.5 The Government announced on 26 November 2003 that it intended to bring forward a Civil Partnership Bill. On 3 June 2004 the Scottish Parliament agreed to the inclusion of Scottish provisions in the Westminster Civil Partnership Bill, following a public consultation in Scotland. Northern Ireland Ministers also agreed to include Northern Ireland provisions in the Westminster Civil Partnership Bill after a public consultation in Northern Ireland. The responses to these respective consultations can be found on the DTI's website at:
<http://www.womenandequalityunit.gov.uk/lgbt/partnership.htm>

7.6 The policy intention behind this Order is that the Trustees of the Fund should be able to make payments under the House of Commons Members' Fund Act 1948 to surviving civil partners of persons who have been Members of the House of Commons, having regard to their circumstances, in the same way as they are able to make payments to widows or widowers of persons who have been Members of the House of Commons. This is consistent with the general policy of the Act that civil partners should be treated in the same way as married couples except where a difference of treatment is properly justified.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on the costs of business, charities or voluntary bodies. It has no cost implications for the Exchequer.

8.2 A full Regulatory Impact Assessment relating to civil partnerships was published alongside the Act and can be viewed at
<http://www.dti.gov.uk/access/ria/index.htm#equality>

9. Contact

Peter Spain at the Cabinet Office (Tel: 01256 846428 or e-mail: peter.spain@cabinet-office.x.gsi.gov.uk) can answer any queries regarding the order.