

**EXPLANATORY MEMORANDUM TO THE
CIVIL PARTNERSHIP (JURISDICTION AND RECOGNITION OF
JUDGMENTS) REGULATIONS 2005**

2005/3334

1. This explanatory memorandum has been prepared by the Department for Constitutional Affairs and is laid before Parliament by Command of Her Majesty.

2. **Description**

2.1. The regulations make provision as to the jurisdiction and recognition of civil partnership proceedings.

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

3.1. None

4. **Legislative background**

4.1. These Regulations are made pursuant to section 219 of the Civil Partnership Act 2004. They make corresponding provisions for civil partnerships including overseas relationships entitled to be treated as civil partnerships, as far as is possible in domestic law, as to the jurisdiction and recognition elements of Council Regulation (EC) 2201/2003 (Brussels II bis) for matrimonial matters, as regards the law in England, Wales and Northern Ireland.

4.2. Brussels II bis deals with jurisdiction and the recognition and enforcement of judgments in matrimonial matters and matters of parental responsibility. The parental responsibility part of Brussels II bis applies to anyone who holds parental responsibility and is not dependent on a matrimonial relationship. Therefore that part of the Council Regulation will apply equally to civil partnerships as it does to spouses. The power in section 219 of the Civil Partnership Act 2004 to make corresponding provisions to Brussels II bis was therefore restricted to replicating provisions in respect of jurisdiction and recognition. These Regulations make, as far as possible and in line with the Civil Partnership Act, corresponding provisions for civil partnerships to Articles 3, 21, 22, 24, 25, 26 and 27. The regulation sets out the jurisdiction for the Civil Partnership Act in relation to habitual residence of civil partners and makes provision for the recognition or non-recognition of a civil partnership judgment from other Member States without any special formalities.

- 4.3. These Regulations are supported, for England and Wales, by Rules 7.40, 7.41, 7.48 and Appendix 2 of the Family Proceedings Rules 1991, as amended by the Family Proceedings (Amendment)(No.5) Rules 2005. There will be corresponding amendments to the Family Proceedings Rules (Northern Ireland) 1996.

5. Extent

- 5.1. This order applies to England, Wales and Northern Ireland.

6. European Convention on Human Rights

- 6.1. No statement is required.

7. Policy background

- 7.1. The Civil Partnership Act 2004 received Royal Assent on 18 November 2004. 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. The Civil Partnership Act 2004 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 3,167 responses to the public consultation. 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>
- 7.4. 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 those respective consultations can be found on the DTI's website at

<http://www.womenandequalityunit.gov.uk/lgbt/partnership.htm>

8. Impact

- 8.1. A full Regulatory Impact Assessment has not been produced for this statutory instrument as it does not impose any new burdens on businesses or public authorities. However a full Regulatory Impact Assessment for civil partnership was published alongside the Civil Partnership Act 2004 and can be viewed at <http://www.dti.gov.uk/access/ria/index.htm#equality>. This assessment includes the impact on the Court Service.

9. Contact

- 9.1. Vicky Rayne at Her Majesty's Court Service, Tel: 020 7210 1446 or e-mail Victoria.Rayne@hmcourts-service.gsi.gov.uk can answer any queries regarding the instrument.