

EXPLANATORY MEMORANDUM TO
THE CIVIL PARTNERSHIP (FAMILY PROCEEDINGS AND HOUSING
CONSEQUENTIAL AMENDMENTS) ORDER 2005

2005 No.3336

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 This Order makes amendments to the Matrimonial and Family Proceedings Act 1984, the Family Law Act 1986 and the Housing Act 1996 consequential to the introduction of the Civil Partnership Act 2004.

2.2 The Matrimonial and Family Proceedings Act 1984 and the Family Law Act 1986 are amended to enable civil partnership proceedings to be treated in the same way as matrimonial proceedings.

2.3 Amendments are also made to the Matrimonial and Family Proceedings Act 1984 to enable the transfer of family proceedings from the High Court to a civil partnership proceedings county court.

2.4 The Housing Act 1996 is amended to enable a deceased tenant's civil partner to succeed to an introductory tenancy in the same way as a deceased tenant's spouse.

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

3.1 None

4. Legislative background

4.1 This Order is made under section 259 of the Civil Partnership Act 2004 (power to make further provision in connection with civil partnership). The Family Law Act amendments were withdrawn from the Civil Partnership Bill before introduction because it became clear that alterations to the same provisions of the Family Law Act 1986 would need to be made to implement Council Regulation (EC) 2201/2003 before the Civil Partnership Bill would receive Royal Assent.

4.2 The changes in respect of the Council Regulation were made by the European Communities (Jurisdiction and Judgments in Matrimonial and Parental Responsibility Matters) Regulations 2005 SI 2005/265.

4.3 This Order now uses the power in section 259 of the Civil Partnership Act 2004 to make the changes to the Family Law Act 1986 that need to be made as a consequence of the 2004 Act. The amendments to the Matrimonial and Family Proceedings Act 1984 and the Housing Act 1996 were identified as omissions to the Civil Partnership Act 2004 during the course of drafting this Order.

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.