

EXPLANATORY MEMORANDUM TO
THE CIVIL PARTNERSHIP ACT 2004 (OVERSEAS RELATIONSHIPS) ORDER 2012

2012 No. 2976

1. This explanatory memorandum has been prepared by the Department for Culture, Media and Sport (Government Equalities Office) and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 The purpose of the Order is to update the table at Schedule 20 to the Civil Partnership Act 2004 (“the Act”), which specifies overseas relationships which are treated as UK civil partnerships, provided that certain other conditions in the Act are satisfied, so that it includes suitable overseas relationships as introduced up until 15th June 2012.

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

3.1 None.

4. Legislative Context

4.1 Chapter 2 of Part 5 of the Act outlines the circumstances where an overseas relationship is to be treated as a civil partnership. It provides that a relationship specified in Schedule 20 is to be treated as a civil partnership if it is registered outside the UK by two people who are of the same sex and are not already civil partners or married. It also gives the Secretary of State the power to amend Schedule 20 by order.

4.2 There have been two previous Orders amending Schedule 20: the Civil Partnership Act 2004 (Overseas Relationships and Consequential, etc. Amendments) Order 2005 (S.I. 2005/3129) and the Civil Partnership Act 2004 (Overseas Relationships) Order 2005 (S.I. 2005/3135).

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

6.1 The Secretary of State for Culture, Media and Sport and Minister for Women and Equalities, the Rt Hon Maria Miller MP, has made the following statement regarding Human Rights:

In my view the provisions of the Civil Partnership Act 2004 (Overseas Relationships) Order 2012 are compatible with the Convention rights.

7. Policy background

7.1 The Act gives certain legal rights and protections to same-sex couples who register as civil partners. The purpose of Part 5, Chapter 2 is to enable same-sex couples who have already registered their relationship in another jurisdiction to be treated as civil partners under UK law.

7.2 Since 2005 there has been a significant increase in the number of same-sex relationships recognised in many parts of the world, and Schedule 20 has become out of date. Therefore the Government committed in *Working for Lesbian, Gay, Bisexual and Transgender Equality: Moving Forward*, published in March 2011, to update Schedule 20 by December 2012.

7.3 The table in Schedule 20 currently includes 25 overseas relationships (in 23 jurisdictions) which are treated as civil partnerships. The Order makes 50 additions to the table. Overseas relationships which are not specified in Schedule 20 can still be treated as a civil partnership on a case-by-case basis provided that they meet the conditions in sections 212(1)(b) and 214 of the Act. However, the amendments to Schedule 20 will make it easier for couples to determine if their relationship is likely to be treated as a civil partnership in the UK, and will also help UK public authorities to identify the legal status of such couples.

8. Consultation outcome

8.1 There has been no formal consultation, as updating Schedule 20 is essentially a factual exercise in identifying overseas relationships suitable for inclusion. However, Government Equalities Office officials have consulted informally with those with expertise of overseas legislation on same-sex unions.

9. Guidance

9.1 The Government's central website will alert non-governmental organisations as well as relevant Government departments (for example the Foreign & Commonwealth Office, Ministry of Justice, Department for Work and Pensions and UK Border Agency) that Schedule 20 has been updated.

10. Impact

10.1 The impact on business, charities or voluntary bodies is expected to be negligible. The Order merely updates an existing table which these sectors are expected to consult each time a case arises as part of their usual business. As mentioned in paragraph 7.3, an overseas relationship can be treated as a civil partnership if it meets a number of general conditions set out in the Act, even though it is not included in Schedule 20. This means

that most of the overseas relationships being added to the table in Schedule 20 are already recognised in the UK on an *ad hoc* basis by caseworkers. However, the update will provide greater clarity as to which overseas relationships are treated as civil partnerships.

10.2 The impact on the public sector is expected to be negligible for the same reasons.

10.3 An Impact Assessment has not been prepared for this instrument because no impact on the private or voluntary sector is foreseen.

11. Regulating small business

11.1 The legislation applies to small business but the impact is expected to be negligible.

12. Monitoring & review

12.1 Officials will be monitoring with stakeholders and UK public authorities to see how the updated Schedule is working in practice. The issue of mutual recognition of civil partnerships more broadly will be considered as part of the Government's work on opening up marriage to same-sex couples.

13. Contact

Anne-Yaël Halévi at the Government Equalities Office (tel: +44 (0)20 7035 8133 or email: Anne-Yael.Halevi@geo.gsi.gov.uk) can answer any queries regarding the instrument.