

## **Executive Note**

### **DRAFT: The Civil Partnership Act 2004 (Consequential Amendments) (Scotland) Order 2005**

The above instrument is made in exercise of the powers conferred by section 259(1) to (3) of the Civil Partnership Act 2004. This instrument is subject to affirmative resolution procedure.

#### **Policy Objective**

The purpose of the instrument is to make consequential amendments to primary legislation to take account of civil partners. The instrument has been drafted in accordance with section 259(8)(b) of the Civil Partnership Act 2004. The instrument will come into effect on commencement of the Act on 5 December 2005.

The Civil Partnership Act 2004 will come into force across the whole of the UK on 5 December. The Act aims to give social and legal inclusion to couples in same-sex relationships. It provides for legal recognition to same-sex relationships, giving people in these relationships access to rights and duties towards each other on the same basis as married couples if such couples have entered into a civil partnership. Schedule 28 of the 2004 Act sets out consequential amendments required to Scottish primary legislation to take account of the new relationship of civil partners. These amendments pick up instances where spouses have a particular right or responsibility and, where it is appropriate, extends these to apply to civil partners.

Given the extent to which the status of marriage is embedded in existing legislation, however, Schedule 28 has not picked up every instance where a consequential amendment is required to take account of civil partners. Section 259 of the Act gives Scottish Ministers an Order making power to make further such amendments as required.

The Civil Partnership Act 2004 (Consequential Amendments) (Scotland) Order 2005 provides for consequential amendments to be made to the following items of primary legislation:

- Human Tissue Act 1961
- Marriage (Scotland) Act 1977
- Land Registration (Scotland) Act 1979
- Anatomy Act 1984
- Family Law Act 1986
- Local Government Finance Act 1992
- Crofters (Scotland) Act 1993
- Land Reform (Scotland) Act 2003
- Mortgage Rights (Scotland) Act 2001

#### **Financial Effects**

This instrument has no financial effects on the Scottish Executive, local government or on business.

Scottish Executive, Justice Department  
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