

**EXPLANATORY MEMORANDUM TO
THE CIVIL PARTNERSHIP (SUPPLEMENTARY PROVISIONS RELATING
TO THE RECOGNITION OF OVERSEAS DISSOLUTIONS, ANNULMENTS
OR LEGAL SEPARATIONS)(ENGLAND AND WALES AND NORTHERN
IRELAND) REGULATIONS**

2005 No. 3104

1. This explanatory memorandum has been prepared by Department for Constitutional Affairs 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 This instrument creates supplementary provisions relating to the recognition, in England, Wales and Northern Ireland, of overseas dissolutions, annulments and legal separations of civil partners.

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

- 3.1 None

4. **Legislative Background**

- 4.1 These regulations are made under s237 of the Civil Partnership Act 2004. The provisions for the recognition of orders made following overseas civil partnership proceedings, are additional to those made in sections 234 to 237 of the Civil Partnership Act 2004 and the Civil Partnership (Jurisdiction and Recognition of Judgments) Regulations 2005.
- 4.2 They make provision equivalent to section 49 of the Family Law Act 1986 so to ensure that, where a country is made up of territories each with a different system of law in relation to civil partnership proceedings, these territories will be treated as individual countries for the purpose of recognition.
- 4.3 They also make provisions equivalent to section 47(1), (2) and section 48 of the Family Law Act 1986, so to provide for recognition of proceedings obtained in cross-proceedings, the recognition of

dissolutions made following legal separations, and the proof of facts relevant to the recognition of proceedings.

5. Extent

5.1 This instrument applies to England, Wales and Northern Ireland.

6. European Convention on Human Rights

Baroness Ashton has made the following statement regarding Human Rights:

In my view the provisions of the Civil Partnership (Supplementary Provisions relating to the Recognition of Overseas Dissolutions, Annulments or Legal Separations) (England and Wales and Northern Ireland) Regulations 2005 are compatible with the Convention rights.

7. Policy background

7.1 The purpose of these regulations has been stated in Section 4 above. The underlying policy is generally to provide parity of treatment between civil partners and spouses, where possible.

7.3 One exception to this parity of treatment concerns provision for the recognition of an overseas dissolution, annulment or legal separation in the case of an overseas relationship where a civil partner is domiciled in a country whose law does not recognise legal relationships between a same sex couple. The need for this provision rests on the fact that there are many countries where the legal status of civil partnership is not established and where foreign dissolution of that status may not be recognised.

The Civil Partnership Act 2004

7.4 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>

7.5 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 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

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.