

2005 No. 3188

CIVIL PARTNERSHIP

The Civil Partnership (Armed Forces) Order 2005

Made - - - - - *15th November 2005*

Laid before Parliament *16th November 2005*

Coming into force - - - *7th December 2005*

At the Court at Buckingham Palace, the 15th day of November 2005

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred upon Her by sections 211, 239 and 244 of the Civil Partnership Act 2004^(a) is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:

PART 1

General

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Civil Partnership (Armed Forces) Order 2005 and shall come into force on 7th December 2005.

(2) In this Order—

“the Act” means the Civil Partnership Act 2004,

“civil partnership register” means a register supplied to the registering officer by the Registrar General for England and Wales,

“registering officer” means an officer referred to in section 211(1)(b) of the Act.

^(a) 2004.c.33.

PART 2

Registration by Armed Forces Personnel

Prescribed countries or territories

2.—(1) For the purposes of section 211(1)(a) of the Act, the countries or territories in which two people may register as civil partners are those listed in paragraph (2).

(2) The countries or territories referred to in paragraph (1) are Australia, Canada, Falkland Islands, Germany, Gibraltar, Nepal, the United States of America and the Sovereign Base Areas of Akrotiri and Dhekelia.

Condition as to employment and capacity

3. For the purposes of section 211(2)(a)(ii) of the Act (condition as to employment in such other capacity of one of the proposed civil partners) the employment and capacities are those provided in article 4.

4. The employment and capacities referred to in article 3 arise when—

- (a) a person is serving Her Majesty or is otherwise employed being a person to whom either the provisions of the Naval Discipline Act 1957(a) are applied by section 118(2) of that Act or to whom the provisions of Part 2 of the Army Act 1955(b) are applied by section 209(2) of that Act or to whom the provisions of Part 2 of the Air Force Act 1955(c) are applied by section 209(2) of that Act, and
- (b) is involved in the performance of any of the following functions, namely, administrative, executive, judicial, clerical, typing, duplicating, machine operating, paper keeping, managerial, professional, instructional, scientific, experimental, technical, industrial or labouring functions.

Condition as to eligibility

5. For the purposes of section 211(2)(b) of the Act (condition as to application to proposed civil partners of eligibility requirements of part of the United Kingdom) in relation to two people proposing to become civil partners, the part of the United Kingdom shall be such part as the proposed civil partners jointly elect in accordance with article 6(2)(g) shall apply to the civil partnership registration.

Notice of proposed civil partnership and declaration

6.—(1) For two people to register as civil partners of each other under this Order each of them must give a notice of proposed civil partnership to a registering officer.

(2) The notice of proposed civil partnership must contain the following information—

- (a) name,
- (b) surname,
- (c) occupation,
- (d) age,
- (e) address,
- (f) whether he or she is or has been a civil partner or married,

(a) 1957 c. 53.
(b) 1955 c. 18.
(c) 1955 c. 19.

- (g) the part of the United Kingdom which for the purposes of section 211(2)(b) the proposed civil partners have jointly elected shall be the relevant part of the United Kingdom for the civil partnership registration.

(3) A notice of proposed civil partnership must also include the necessary declaration, made and signed by the person giving the notice—

- (a) at the time when the notice is given, and
- (b) in the presence of a registering officer,

and the registering officer must attest the declaration by adding his name, description and place of residence.

(4) For the purposes of paragraph (3) the necessary declaration is a solemn declaration in writing that the proposed civil partner believes that the proposed civil partners are eligible to form a civil partnership with each other in such part of the United Kingdom as they have jointly elected shall be the relevant part for the civil partnership registration and that he knows of no other lawful impediment to the formation of the civil partnership.

(5) Where a notice of proposed civil partnership is given to a registering officer in accordance with this article, the registering officer must ensure that the following information is recorded as soon as possible—

- (a) the fact that the notice has been given and the information in it,
- (b) the fact that the registering officer has attested the declaration.

Parental etc. consent where the proposed civil partner is under 18

7.—(1) For the purposes of section 211(2)(c) section 54(4)(ii) and section 177(4)(ii) of the Act it shall be a requirement that where either civil partner is under the age of 18, and the proposed civil partners have elected for the purposes of article 5 and article 6(2)(g) of this Order the part of the United Kingdom which shall be the relevant part for the civil partnership registration is either England and Wales or Northern Ireland then, save in the case of an election in respect of England and Wales where the proposed civil partner under the age of 18 is a surviving civil partner or widow or widower, the written consent of appropriate persons is required. The written consent shall be given to the registering officer before a person under the age of 18 and another person may register as civil partners of each other. Determination of appropriate persons shall be decided in accordance with sections 4, 145 and Schedules 2 and 13 of the Act as the law on appropriate persons to give consent is applied to England and Wales and Northern Ireland.

(2) Where the consent of appropriate persons is required under this article, the necessary declaration under article 6(3) of this Order must also state in relation to each appropriate person that that person's consent has been obtained or state that no person exists whose consent is required to a civil partnership between the proposed civil partner under 18 and another person.

(3) On request by personal attendance of any person whose consent is required, the registering officer shall produce the notice given under article 6(1) above. Such person may forbid the formation of the civil partnership referred to in the notice at any time before the proposed civil partners have registered as civil partners by writing 'forbidden' upon the notice, together with his name and address and a statement of his capacity to so forbid. If forbidden, the notice and all proceedings shall be void.

Evidence of name etc.

8.—(1) The registering officer to whom a notice of proposed civil partnership is given may require the person giving the notice to provide him with evidence—

- (a) relating to that person, or
- (b) if the registering officer considers that the circumstances are exceptional, relating not only to that person but also to that person's proposed civil partner.

(2) "evidence", in relation to a person, means evidence—

- (a) of the person's name and surname,

- (b) of the person's age,
- (c) as to whether the person has previously formed a civil partnership or a marriage and, if so, as to the ending of the civil partnership or marriage.

Proposed civil partnership to be publicised

9.—(1) Where a notice of proposed civil partnership has been given to a registering officer, he shall keep the relevant information on public display within a conspicuous place in his office during the waiting period.

(2) For the purposes of this article “relevant information” means—

- (a) the name of the person giving the notice,
- (b) the name of that person's proposed civil partner.

(3) For the purposes of this Order “waiting period” means the period beginning the day after the notice is recorded and ending at the end of the period of 15 days beginning with that day.

Objection to proposed civil partnership

10.—(1) Any person may object to an intended registration of a proposed civil partnership giving any registering officer notice of his objection.

(2) A notice of objection must—

- (a) state the objector's place of residence and the ground of objection, and
- (b) be signed by or on behalf of the objector.

(3) If a notice is given to a registering officer, he must ensure that the fact that it has been given and the information in it are recorded as soon as possible.

(4) Where an objection has been lodged, the person named therein may not form a civil partnership until either the objection has been withdrawn by the person who entered it, or the registering officer is satisfied that the objection ought not to obstruct the person named from forming a civil partnership.

Period during which registration may take place

11.—(1) The proposed civil partners may not register as civil partners of each other under the provisions of this Order until the waiting period in relation to each notice of proposed civil partnership has expired.

(2) Subject to paragraph (1), they may register as civil partners of each other by signing the civil partnership register before a registering officer at his office on any day in the applicable period at a time to be set by him.

(3) If they do not register as civil partners before the end of the applicable period—

- (a) the notices of proposed civil partnership are void, and
- (b) no registering officer may officiate at the signing of the civil partnership register by them.

(4) For the purposes of this article, the applicable period, in relation to two people registering as civil partners of each other, is the period of 12 months beginning with—

- (a) the day on which the notices of proposed civil partnerships are recorded, or
- (b) if the notices are not recorded on the same day, the earlier of those days.

Formation of civil partnership by registration

12.—(1) Two people are to be regarded as having registered as civil partners of each other once each of them has signed the civil partnership register—

- (a) at the invitation of, and in the presence of, a registering officer, and
- (b) in the presence of each other and two witnesses.

(2) Paragraph (1) applies regardless of whether paragraph (3) is complied with.

(3) After the civil partnership register has been signed under paragraph (1), it must also be signed, in the presence of the civil partners and each other, by—

- (a) each of the two witnesses, and
- (b) the registering officer.

(4) No religious service is to be used while the registering officer is officiating at the signing of a civil partnership register.

Jurisdiction

13. Two people who register as civil partners of each other under this Order are to be treated for the purposes of section 221(c)(i) and (2)(c)(i), 222(c) and 224(b), 225(1)(c)(i) and (3)(c)(i), 229(1)(c)(i) and (2)(c)(i), 230(c) and 232(b) of the Civil Partnership Act 2004 and section 1(3)(c)(i) of the Presumption of Death (Scotland) Act 1977^(a) as if they had registered their civil partnership in the part of the United Kingdom jointly elected by them in accordance with article 5 and article 6(2)(g) of this Order.

(a) 1977c.27.

PART 3

Commanding Officers' Certificates

Commanding officers' certificates of no impediment

14.—(1) This article applies where two people wish to register as civil partners of each other in England and Wales and one of them is an officer, seaman or marine borne on the books of one of Her Majesty's ships at sea ("the applicant") and the other is resident in England and Wales.

(2) The applicant shall give signed notice of his intention to form the civil partnership with the other person in England and Wales to the captain or other officer in command of the ship ("the officer") containing the following information—

- (a) name,
- (b) surname,
- (c) whether he or she is or has been a civil partner or married,
- (d) the name and surname of the proposed civil partner.

(3) The notice must include a declaration signed by the applicant in the presence of the officer declaring that he believes that there is no impediment of kindred or affinity or other lawful hindrance to the formation of the civil partnership. The officer must attest the declaration by adding his name, description and place of residence.

(4) The officer may demand evidence of any of the information contained in the signed notice.

(5) The officer shall file every such notice given within the archives of his ship.

(6) The officer having been given the notice at paragraph (2) and having attested the declaration at paragraph (3) may issue a certificate that no legal impediment to the formation of the civil partnership has been shown to the officer to exist.

A K Galloway
Clerk of the Privy Council

EXPLANATORY NOTE

(This note is not part of the Order)

Section 211 of the Civil Partnership Act 2004 (“the Act”) empowers Her Majesty, by Order in Council, to make provision for two people to register as civil partners of each other in prescribed countries or territories outside the United Kingdom where one of the proposed civil partners is a member of Her Majesty’s armed forces serving in the country or territory or is a person employed in such country or territory in a prescribed capacity or is a child of either of the foregoing having his home in the country or territory with his parent. Part 2 of the Order sets out the provisions required in order to allow civil partnership registration under section 211. Section 239 of the Act applies to cases where two people wish to register as civil partners of each other in England and Wales but one of them (“A”) is not resident in England and Wales at the time and is an officer, seaman or marine borne on the books of one of Her Majesty’s ships at sea. Section 239 empowers Her Majesty, by Order in Council, to make provision to permit the ship’s captain or other officer in command of the ship to issue A with a certificate of no impediment which will enable the registration authority in England and Wales to apply the modified procedure for certain non-residents. Part 3 of the Order sets out the provisions required by section 239.

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