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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order makes amendments to various provisions of subordinate legislation. The amendments are consequential upon the Civil Partnership Act 2004 (“the Act”), which comes into force in Northern Ireland on 5th December 2005. The Act enables same-sex couples to form a civil partnership by registering as civil partners of each other. The Act also makes provision for civil partners to be treated in the same or similar way as spouses in relation to certain benefits and obligations.

The Schedule contains amendments to miscellaneous subordinate Northern Ireland legislation. The effect of the amendments is to ensure that civil partners are treated in the same way as spouses.

Paragraph 1 amends the Cremation (Belfast) Regulations (Northern Ireland) 1961 ([S.R. & O. \(N.I.\) 1961 No. 61](#)). The amendments relate to the definition of who is to be regarded as “near relative” of the deceased, as well as the status of the deceased (ie single, a civil partner etc).

Paragraph 2 amends Article 2 of the Intestate Succession (Interest) Order (Northern Ireland) 1985 ([S.R. 1985 No. 8](#)) which fixes the percentage interest payable on a surviving spouse’s statutory pecuniary legacy. The amendment ensures that the percentage interest fixed by the Order also applies to a surviving civil partner’s statutory pecuniary legacy.

Paragraph 3 amends the Schedule to the Enduring Powers of Attorney Regulations (Northern Ireland) 1989 ([S.R. 1989 No. 253](#)) which prescribes the Form in which an enduring power of attorney should be made. Notes to Part B of the Form advise that a donor’s husband or wife should not witness the making of the enduring power of attorney. The amendment extends this guidance to include references to the civil partner of the donor witnessing the making of an enduring power of attorney.

Paragraph 4 amends the Adoption Agencies Regulations (Northern Ireland) 1989 ([S.R. 1989 No. 253](#)). The Schedule to the Regulations lists the particulars which an adoption agency shall obtain relating to a child being considered for adoption, as well as the child’s natural parents and prospective adopters. The amendment requires the adoption agency to obtain details of the civil partnership history of both the natural parents and prospective adopters in the same way as it obtains details of their marital history.

Paragraph 5 amends paragraph 20(1) of Schedule 2 to the Burial Grounds Regulations (Northern Ireland) 1992 ([S.R. 1992 No. 238](#)). Paragraph 20 is an interpretation provision and defines “relative” for the purposes of Schedule 2, which is concerned with the removal of memorials and the levelling of graves. Under Schedule 2, if a relative objects to proposals to remove a memorial or to levelling a grave, a district council may not proceed in relation to those proposals unless the Department of Environment approves the proposals. The effect of the amendment is to include a civil partner within the definition of a relative and so put a civil partner in the same position as a spouse.

Paragraph 6 amends the Trade Union (Nominations) Regulations 1992 ([S.R. 1992 No. 239](#)) which deal with nominations made by members of trade unions as to the payment of any union funds which may be made on their death. The effect of the amendment to regulation 2 is to place a civil partner in the same position as a spouse in relation to an exception from a provision which renders a nomination void. The amendments to regulation 3 provide that, in relation to a nomination, forming a subsequent civil partnership is treated in the same way as entering into a subsequent marriage.

Paragraphs 7, 8 and 9 make amendments to a number of sets of Regulations which govern the placement, representation and independent visitors of children looked after by authorities in exercise of their functions under the Children (Northern Ireland) Order 1995. Paragraph 7 amends the definition of “Independent Visitor” in the Definition of Independent Visitors (Children) Regulations

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(Northern Ireland) 1996 (S.R. 1996 No. 434) to exclude the civil partners of members, directors, trustees etc or employees of the authority or organisation making appointments of Independent Visitors from being Independent Visitors. Paragraph 8 amends the definition of “independent person” in the Representations Procedure (Children) Regulations (Northern Ireland) 1996 (S.R. 1996 No. 451) to exclude the civil partners of members, directors, officers etc of organisations appointing independent persons from being an independent person to whom representations are made. Paragraph 9 amends the Placement of Children with Parents etc. Regulations (Northern Ireland) 1996 (S.R. 1996 No. 463) and requires authorities to take into account, inter alia, the civil partnership history of a person with whom the authority is considering placing a child.

Paragraph 10 amends the Registration of Clubs (Accounts) Regulations (Northern Ireland) 1997 (S.R. 1997 No. 333). It adds civil partners and people related to each other by civil partnership to the list of people who fall within the meaning of the term “relative” in regulation 1(2).

Paragraph 11 amends the Domestic Energy Efficiency Grants Regulations (Northern Ireland) 2002 (S.R. 2002 No. 56) which enable the Department for Social Development to make or arrange for the making of grant for the improvement of energy efficiency in dwellings occupied by people in receipt of certain benefits. The amendments ensure that civil partners and people living together as if they were civil partners are treated in the same way as spouses and people living together as if they were spouses.

Paragraphs 12, 13, 14, 16 and 17 amend the Paternity and Adoption Leave Regulations (Northern Ireland) 2002 (S.R. 2002 No. 377), the Statutory Paternity Pay and Statutory Adoption Pay (General) Regulations (Northern Ireland) 2002 (S.R. 2002 No. 378), the Statutory Paternity Pay and Statutory Adoption Pay (Administration) Regulations (Northern Ireland) 2002 (S.R. 2002 No. 379), the Paternity and Adoption Leave (Adoption from Overseas) Regulations (Northern Ireland) 2003 (S.R. 2003 No. 222) and the Statutory Paternity Pay (Adoption) and Statutory Adoption Pay (Adoption from Overseas) Regulations (Northern Ireland) 2003 (S.R. 2003 No. 223). These regulations extend entitlement to paternity leave, adoption leave (including adoption from overseas), statutory paternity pay, statutory adoption pay (including adoption from overseas) to civil partners.

Paragraph 15 amends the Flexible Working (Eligibility, Complaints and Remedies) Regulations (Northern Ireland) 2003 (S.R. 2003 No. 174) to extend the entitlement to request a contract variation for flexible working to civil partners.

Paragraph 18 amends the Employment Equality (Sexual Orientation) Regulations (Northern Ireland) 2003 (S.R. 2003 No. 497). These regulations implement in Northern Ireland Directive 2000/78 EC (establishing a general framework for equal treatment in employment) so far as it relates to discrimination on grounds of sexual orientation. The regulations make it unlawful to discriminate on grounds of sexual orientation in employment and vocational training. Sub-paragraph (1) inserts a new paragraph — paragraph (3) into regulation 3 to make it clear that the status of a civil partner is comparable to that of a spouse. The effect of the amendment is that if a spouse receives different treatment to a civil partner, the employer or training provider etc, cannot successfully argue that there is no discrimination because married persons are not comparable to civil partners. Sub-paragraph (2) substitutes a new regulation 28. Regulation 28(a) preserves the existing exemption for benefits dependent on marital status when the right to the benefit accrued or the benefit is payable in respect of periods of service prior to the coming into force of the Act. Regulation 28(b) permits benefits to be conferred on married people and civil partners to the exclusion of all others.

Paragraph 19 amends the Housing Renewal Grants (Reduction of Grant) Regulations (Northern Ireland) 2004 (S.R. 2004 No. 8). These Regulations provide for the reduction of the amount of renovation grant, disabled facilities grant and replacement grant which may be paid to applicants. The amendments insert references to civil partners and persons living together as if they were civil partners for the purposes of calculating the applicable amount of the reduction of grant payable to the applicant “relevant person”.

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Paragraph 20 amends the Personal Social Services and Children' Services (Direct Payments) Regulations (Northern Ireland) 2004 ([S.R. 2004 No. 120](#)). Regulation 7 prohibits a direct payment from being used to secure a service from certain persons, except in specified circumstances, and is amended to include references to a civil partner and to a person who lives as if they were a civil partner.

Paragraph 21 amends the Limited Liability Partnerships Regulations (Northern Ireland) 2004 ([S.R. 2004 No. 307](#)) so that the definition of “associate” in the Insolvency (Northern Ireland) Order 1989, as applied to limited liability partnerships by those regulations, extends to civil partners of members of limited liability partnerships in the same way that it applies to the spouses of such members.

A regulatory impact assessment has not been prepared for this Order, as it has no impact on the costs of business, charities, voluntary bodies or any public bodies distinct from that of the Act itself. A full regulatory impact assessment for civil partnership was published alongside the Act and can be viewed at <http://www.dti.gov.uk/access/ria/index.htm#equality>.